

A BILL

ENTITLED

AN ACT to Make provision for the better management of the public debt; to repeal the Loan Act, 1964, and several enactments related to the raising of loans by the Government; and for connected matters.

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

Preliminary

1. This Act may be cited as the Public Debt Management Act, 2012, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title and
commence-
ment.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Bank” means the Bank of Jamaica established by section 3 of the *Bank of Jamaica Act*;

“commencement date” means the day appointed under section 1 for the coming into operation of this Act;

“Consolidated Fund” means the Consolidated Fund established by section 114 of the Constitution of Jamaica;

“electronic” means having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities and references to carrying out any act “electronically” shall be construed similarly;

“financial institution” means any of the following—

- (a) a bank licensed under the *Banking Act*;
- (b) a company—
 - (i) licensed under the *Financial Institutions Act*; or
 - (ii) registered under the *Insurance Act*;
- (c) a building society registered under the *Building Societies Act*;
- (d) a society registered under the *Cooperative Societies Act*;
- (e) a person licensed under the *Securities Act* as a dealer or investment advisor;
- (f) an individual or entity licensed by a foreign regulator;
- (g) any other person declared by the Minister, by order subject to affirmative resolution, to be a financial institution for the purposes of this Act;

“fiscal deficit” means, in relation to any financial year, the negative difference between the estimate of revenue for that year and the estimate of expenditure for that year as approved by the House of Representatives in accordance with Chapter VIII of the Constitution of Jamaica, less principal repayments falling due in that year;

“Fiscal Management Strategy” means the Fiscal Management Strategy referred to in section 48B(2) of the *Financial Administration and Audit Act*;

“Fiscal Responsibility Statement” means the Fiscal Responsibility Statement referred to in section 48B(2) of the *Financial Administration and Audit Act*;

“foreign regulator” means an individual or body based in a country other than Jamaica that is responsible for licensing, supervising, monitoring, inspecting, investigating and otherwise regulating financial institutions in that country or another country;

“Government company” means a company registered under the *Companies Act* being a company wholly owned by the Government or an agency of the Government or in which the Government or an agency of Government holds more than fifty per cent of the shares;

“Government Securities” or “securities” means any of the following issued by or on behalf of the Government—

- (a) treasury bills;
- (b) benchmark investment notes;
- (c) investment notes that are inflation protected by alignment to the Consumer Price Index;
- (d) debentures;
- (e) stocks;
- (f) land bonds, equity investment bonds, national development bonds, national savings bonds and other bonds;

- (g) promissory notes; and
- (h) such other documents or writings as are commonly known as securities or designated, by the Minister by order, as securities for the purpose of this Act;

“immobilization” means the process by which the underlying physical certificates relating to Government Securities are deposited with and are held by a depository and the holders of which do not receive a physical certificate upon purchase of the security and “immobilized” shall be construed accordingly;

“in book-entry form”, in relation to the issue of Government Securities, means in accordance with a book-entry system in electronic form approved by the Minister;

“licensed central securities depository” has the meaning assigned to it in section 67A of the *Securities Act*;

“loans” includes debt obligations arising under Government Securities and any other financial obligations approved by the Minister as a loan for the purpose of this Act;

“local authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the *Kingston and St. Andrew Corporation Act*;
- (b) in relation to any other parish, the Parish Council of that Parish as constituted under the *Parish Councils Act*; or
- (c) in relation to a municipality, a Municipal Council established under the *Municipalities Act*;

“medium term” means a period of three to five years;

“Medium-Term Public Debt Management Strategy” means the debt management strategy in the medium term referred to in section 5;

“Minister” means the Minister responsible for finance;

“public body” means any of the following—

- (a) a Ministry, Department, Executive Agency or other agency of Government;
- (b) a local authority;
- (c) a statutory body or authority; and
- (d) a Government company;

“public debt” means all financial liabilities created as a result of borrowing or guarantees by the Government and includes Government Securities;

“Register” means the Register of Government Securities kept pursuant to section 16 (1);

“Registrar” means the Bank operating in its capacity as the Registrar of Government Securities or the licensed central securities depository, or individual or body other than the Bank, designated under section 15 (3) as the Registrar.

3.—(1) Notwithstanding the provisions of any other law, on and after the commencement date, the raising of all loans for or on behalf of the Government, and the giving of guarantees with respect to the repayment of loans by any public body, shall be governed by this Act. Application of Act.

(2) No loan borrowed by any public body shall be guaranteed by or on behalf of the Government otherwise than in accordance with this Act.

(3) Subject to section 28, this Act applies to securities issued by the Government under any enactment, whether before or after the commencement of this Act.

Public Debt Management

Duty of Minister to manage public debt to achieve specified objectives.

4. The Minister shall manage the public debt efficiently and effectively so as to achieve the following objectives—

- (a) ensuring that the financing needs and the payment obligations of the Government are met at the lowest possible cost over the medium term so as to achieve the fiscal targets specified in section 48C of the *Financial Administration and Audit Act* in accordance with the fiscal management principles specified in section 48D of the *Financial Administration and Audit Act*;
- (b) developing and maintaining an efficient market for Government Securities;
- (c) ensuring that the debt is managed consistent with fiscal sustainability;
- (d) promoting the development of the domestic debt market; and
- (e) ensuring that the Medium-Term Public Debt Management Strategy is compatible with the targets of the macroeconomic objectives of the Government.

Medium-Term Public Debt Management Strategy.

5.—(1) The Minister shall cause to be prepared annually on a rolling basis a debt management strategy in respect of the medium term (in this Act referred to as “the Medium-Term Public Debt Management Strategy”) aimed at achieving the objectives specified in section 4.

(2) The Medium-Term Public Debt Management Strategy shall—

First Schedule.

- (a) be approved by the Cabinet;
- (b) contain the information specified in the First Schedule;
- (c) take into account—
 - (i) the macroeconomic environment;
 - (ii) future borrowing requirements of the Government;

- (iii) market conditions; and
- (iv) such other factors as may be relevant for the preparation of the Strategy.

(3) On the approval of the Medium-Term Public Debt Management Strategy, and any amendment thereof, all Government borrowings and other debt management activities shall be undertaken in accordance with the Strategy.

(4) The Medium-Term Public Debt Management Strategy as approved by the Cabinet shall be tabled in the House of Representatives.

6. The Minister may, taking account of the debt management objectives specified in section 4 and the Medium-Term Public Debt Management Strategy specified in section 5, undertake portfolio management operations, including roll-overs, swaps and other derivative transactions, buybacks, switches and the redemption of Government debt instruments.

Power of Minister to undertake portfolio management operations.

7.—(1) For the purposes of this Act, there is hereby constituted a Public Debt Management Committee.

Public Debt Management Committee.

(2) The functions of the Public Debt Management Committee in relation to the management of the public debt, shall be to—

- (a) monitor the implementation of this Act in general and the Medium-Term Public Debt Management Strategy in particular;
- (b) assess the policies, strategies and operations of debt management and the management of contingent liabilities with a view to ensuring consistency with this Act and the macroeconomic, monetary and fiscal policies of the Government; and
- (c) perform such other functions as may be assigned to it by the Minister.

(3) The provisions of Part I of the Second Schedule shall have effect as to the constitution and operations of the Public Debt Management Committee.

Part I. Second Schedule.

Public Debt
Financing
Committee.

8.—(1) For the purposes of this Act, there is hereby constituted a Public Debt Financing Committee.

(2) The functions of the Public Debt Financing Committee, in relation to the management of the public debt, shall be to—

- (a) make recommendations to the Financial Secretary in respect of debt instruments;
- (b) review other debt management related transactions, such as derivatives, including currency and interest rate swaps and debt exchanges;
- (c) review and recommend the monthly schedule of market instruments;
- (d) review the evaluations of funding requests by specified public bodies;
- (e) review and monitor issues relating to the cost or pricing of contingent liabilities;
- (f) determine the monthly financing programme;
- (g) provide periodic reports to facilitate the work of the Public Debt Management Committee; and
- (h) perform such other functions as may be assigned to it by the Financial Secretary.

Part II.
Second
Schedule.

(3) The provisions of Part II of the Second Schedule shall have effect as to the constitution and operations of the Public Debt Financing Committee.

(4) For the purposes of this section “specified public body” means—

- (a) a statutory body or authority;
- (b) a local authority; or
- (c) a Government company.

Loans

9.—(1) The authority to raise loans for or on behalf of the Government vests solely in the Minister. Power of Minister to borrow.

(2) The Minister may, from time to time in accordance with this Act and for the purposes set out in section 10, raise loans in the name, and for or on behalf, of the Government, whether inside or outside of Jamaica, in Jamaican currency or foreign currency.

(3) The Minister may, with the consent of the lender making a loan referred to in subsection (2), where such consent is contractually required, and upon such terms and conditions as the Minister may determine—

- (a) repay the loan prior to the scheduled date of repayment or extend the date of repayment of the loan;
- (b) renegotiate the terms and conditions of the loan;
- (c) restructure, refinance, novate or convert the loan from one form into another; or
- (d) consolidate two or more such loans into a single loan.

10. The Minister may borrow money pursuant to section 9 for the following purposes only— Borrowing purposes.

- (a) to finance the fiscal deficit;
- (b) to refinance any maturing or outstanding public debt;
- (c) to finance investment projects approved by the House of Representatives;
- (d) to finance payment of guarantees called;
- (e) to facilitate cash management operations;
- (f) to finance activities required in the interests of national security;
- (g) to reduce or eliminate the effects of a period of public disaster or a period of public emergency as defined in section 20 of the *Constitution of Jamaica*;

- (h) to replenish international reserves;
- (i) to on-lend, from time to time, with the approval of the House of Representatives, to public bodies and such other bodies as the House of Representatives may approve; and
- (j) such other grounds as the Minister may, by order, subject to affirmative resolution of the House of Representatives, specify to be exceptional.

Loan
agreements.

11.—(1) For the purposes of section 9, the Minister may enter into an agreement with any person, financial institution, international financial organization, or foreign government, in such manner and on such terms as he thinks fit.

(2) The Minister may, by instrument in writing, authorize any person to sign, issue or execute any document for the purpose of giving effect to an agreement under subsection (1) or for any related purpose.

(3) An authorization under subsection (2) shall not prevent the exercise of the function by the Minister.

Borrowing
limits.

12.—(1) Subject to section 48C of the *Financial Administration and Audit Act* and subsection (2), loans raised in any financial year shall not, in the aggregate, exceed the sum of—

- (a) the principal repayment falling due in that financial year;
- (b) the amount of the fiscal deficit; and
- (c) any pre-funding amounts.

(2) For the purposes set out in section 10, the Minister may, in any financial year, raise loans in excess of the amount referred to in subsection (1) to the extent of—

- (a) five per cent of the principal repayment falling due in that financial year; and
- (b) subject to affirmative resolution of the House of Representatives, a further five per cent of the principal repayment falling due in that financial year.

(3) For the purposes of this section “pre-funding amounts” means borrowings which are for the specific purpose of repaying principal indebtedness which fall due for repayment within twelve months thereafter.

13. All amounts required for the repayment of any sum borrowed under the powers conferred by section 9 and all interest and other charges on such sum and other charges contractually due in connection with such borrowing are hereby charged upon and shall be paid out of the Consolidated Fund and assets of Jamaica.

Loans charged
on
Consolidated
Fund.

Government Securities

14.—(1) On and after the commencement date, every Government Security may be issued in book-entry form.

Issue of
Government
Securities.

(2) The legal title to any Government Security issued after the commencement date may be acquired, evidenced, pledged and transferred electronically.

(3) On and after the commencement date, payment of interest on a Government Security may be effected by electronic means and in accordance with the provisions of this Act and any regulations made hereunder.

15.—(1) Subject to subsection (3) and for the purposes of this Act, on and after the commencement date, the Bank by virtue of being appointed as Registrar of Government Securities under section 5 of the *Government Securities Dematerialization Act* (now repealed), shall continue to perform the functions of the Registrar and be deemed to have been appointed under this Act, subject to such provisions as may be prescribed.

Appointment
and functions
of Registrar of
Government
Securities.

(2) The functions of the Registrar shall be to keep and maintain the Register of Government Securities.

(3) The Minister may by order, designate a licensed central securities depository, or person or body other than the Bank, as the Registrar.

Register of
Government
Securities.

16.—(1) On and after the commencement date, the Register of Government Securities established under section 6 of the *Government Securities Dematerialization Act* (now repealed) shall remain in effect and be deemed to have been established and kept pursuant to this section, subject to such provisions as may be prescribed.

(2) The Registrar shall cause to be entered in the Register—

- (a) a record of rights arising from the issue of Government Securities;
- (b) the names of the holders of these rights, at any given time; and
- (c) such third party rights in or over securities or other particulars, as may be prescribed.

(3) The Register shall be *prima facie* evidence of the legal title to any Government Security entered therein.

(4) A copy of an extract of the Register, duly certified by the Registrar, shall be admissible in evidence in any court.

Government Guarantees

Government
guarantees.

17.—(1) Subject to section 48D(b) of the *Financial Administration and Audit Act*, section 18 and subsection (2), the Minister may, with the prior approval of the House of Representatives, guarantee—

- (a) the payment of the whole or a part of the principal monies and interest and the payment of any other amounts payable under or upon any loan raised by any public body; and
- (b) the performance of any obligation ancillary to the agreement in relation to any payment referred to in paragraph (a).

(2) Any guarantee given under subsection (1) may be signed by the Minister or any person authorized in writing by the Minister to do so.

- (3) No loan shall be guaranteed under subsection (1)—
- (a) unless it is consistent with the terms or conditions upon which the House of Representatives has given its approval;
 - (b) unless the proposal for the guarantee is brought to the House of Representatives accompanied by a statement setting out—
 - (i) the details of a risk assessment exercise undertaken with respect to the issue of the guarantee and a determination as to the level of risk involved; and
 - (ii) the total amount of all principal monies then remaining unpaid in respect of all other loans previously so guaranteed;
 - (c) unless the Financial Secretary certifies that the guarantee is consistent with the fiscal targets for total debt specified in section 48C (1) (b) of the *Financial Administration and Audit Act*.

18. The Minister shall manage the Government guaranteed debt in a prudent manner that is consistent with the long term objective of lowering the Government guaranteed debt-to-GDP ratio, to achieve a target below—

- (a) eight per cent at the end of the financial year 2016/17;
- (b) five per cent at the end of the financial year 2021/22; and
- (c) three per cent at the end of the financial year 2026/27.

19.—(1) Any amount payable in respect of a loan that is guaranteed pursuant to section 17, shall—

- (a) notwithstanding anything to the contrary, be a charge on such revenues and assets of the borrower as shall be specified by the Minister; or
- (b) be secured in any other manner as the Minister may arrange with the borrower and the lender.

Ceiling on
guarantees.

Security for
guaranteed
loans.

(2) For the purposes of subsection (1), any amount payable consequent on a failure to perform such obligation as is referred to in section 17(1)(b) shall be treated as if it were principal monies guaranteed under this Act.

(3) Where a loan is guaranteed under this Act, the borrower shall, unless the Minister otherwise determines, pay to the Government a risk fee at such rate and in such manner as may be prescribed.

Guarantees
charged on
Consolidated
Fund.

20.—(1) The sums guaranteed under this Act, shall be a charge on the Consolidated Fund.

(2) Where the Minister is satisfied that there has been any default in the payment of any amount guaranteed under the provisions of this Act, the Minister shall direct the payment of such amount out of the Consolidated Fund and assets of Jamaica.

(3) Where, under subsection (2), the Minister has directed the payment of an amount guaranteed, the borrower shall make to the Accountant-General, at such times and in such manner as the Minister may direct, payments of—

- (a) such sums as may be directed in or towards repayment of the amount paid in fulfillment of the guarantee given;
- (b) interest on the balance outstanding for the time being in respect of an amount so paid, at such rate as the Minister may direct, and different rates of interest may be directed as respects different sums and as respects different periods.

(4) Where the Minister gives a direction under subsection (2) and publishes the direction in the *Gazette*, if the payment of the amounts guaranteed is secured in the manner specified in—

- (a) section 17 (1) (a), the revenue and assets of the borrower specified by the Minister under that provision shall, upon publication of the direction in the *Gazette* but subject to subsection (5), vest in the Commissioner of Lands where they consist of land, and in the Accountant-General in

any other case, in trust for the Government until such time as any sum paid out under the provisions of subsection (2) is repaid to the Government;

- (b) section 17(1)(b), the Minister shall, upon publication of the direction in the *Gazette*, take such action as may be appropriate to ensure repayment to the Government of any sum paid out pursuant to subsection (2).

(5) The vesting of revenues and assets as provided in subsection (4)(a) shall be without prejudice to and shall not affect any obligations or liabilities or the rights and privileges of any secured creditor which attached to or existed in relation to such revenues and assets immediately before the publication of the directions and which did not cease to exist before the repayment made under subsection (2).

(6) Where any loan is guaranteed under this Act, the Minister may, by order published in the *Gazette*, provide that any tax, duty or fee payable under the *Income Tax Act*, the *Stamp Duty Act*, the *Transfer Tax Act*, the *Registration of Titles Act* or any other enactment, shall be remitted where the remission is, in the opinion of the Minister, necessary to give effect to any term or condition subject to which the loan was so guaranteed.

(7) Every public body shall, notwithstanding anything to the contrary in any other law or document, furnish to the Minister, on or before the last day of each month, a report on the status of all of its debts and other liabilities whether guaranteed or not, as at the end of the preceding month.

(8) The Minister shall, within four months after receipt of the reports mentioned in subsection (7), compile a report and cause the report to be published electronically and otherwise be made available to the public.

21. All liabilities in the form of public debt and in the form of obligations under guarantees authorized under this Act, shall rank *pari passu*. Equality of treatment.

Reports and Register

Annual report. **22.**—(1) The Minister shall table in the House of Representatives along with the financial statements and revenue estimates for any financial year, a report on the management of the public debt during the preceding financial year.

(2) The report referred to in subsection (1) shall—

- (a) contain an analysis of the macroeconomic environment and market developments in Jamaica; and
- (b) include information concerning the following—
 - (i) the debt management activities in the preceding financial year;
 - (ii) the public debt stock;
 - (iii) the level of borrowing in nominal terms and in terms of the Gross Domestic Product;
 - (iv) the profile of the debt portfolio with its costs and risks identified;
 - (v) the extent of compliance with the Medium-Term Public Debt Management Strategy and the reasons for any deviation from the Strategy;
 - (vi) the flow, stock and composition (including currency, maturity and interest rate structure) of guaranteed debt and financial assets and other explicit contingent liabilities of the Government; and
 - (vii) on-lending activities.

Quarterly report on new loans raised.

23. The Minister shall cause to be tabled in the House of Representatives, within six weeks after the end of each quarter, a report specifying the details of any loan raised in the preceding quarter, including—

- (a) the amount raised;

- (b) the purpose for which the loan was raised; and
- (c) the terms and conditions of the loan.

24. The Minister shall cause an electronic register of the portfolio of Government guaranteed debt to be kept and maintained.

Register of
Government
guaranteed
debt.

General

25.—(1) The Minister may make regulations for the purpose of giving better effect to the provisions of this Act, and without prejudice to the generality of the foregoing may make regulations with respect to—

Regulations.

- (a) the management of the public debt;
- (b) a code of conduct (including conflict of interest guidelines) for persons employed in the management of the public debt;
- (c) the manner in which, and the conditions subject to which, monies may be raised and repaid, including the payment of interest on the monies;
- (d) procedures for borrowing;
- (e) the issue of guarantees, including the terms and conditions subject to which guarantees may be given;
- (f) the issue, administration, registration, transfer, redemption and payment of interest on and the holding of immobilized Government Securities;
- (g) third-party rights in or over Government Securities;
- (h) the keeping and maintenance of the Register and any other register required to be kept and maintained pursuant to this Act; and
- (i) any other matter required by this Act to be prescribed.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

(3) Having regard to section 29(b) of the *Interpretation Act*, regulations made under this section may provide in respect of a breach of any of the provisions thereof for the imposition of penalties on summary conviction in a Resident Magistrate's Court of a fine not exceeding five hundred thousand dollars or of imprisonment for a term not exceeding six months or of both such fine and imprisonment.

Power of
Minister to
amend
Schedule and
penalties.

26. The Minister may—

- (a) by order subject to negative resolution, amend the Second Schedule;
- (b) by order subject to affirmative resolution, amend any monetary penalty prescribed by this Act.

Amendment of
Acts.
Third
Schedule.

27. The provisions of the Acts referred to in the first column of the Third Schedule are amended in the manner specified in relation thereto in the second column of the Third Schedule.

Repeal of
enactments
and savings.
Fourth
Schedule.

28.—(1) Subject to subsection (2), the enactments specified in the Fourth Schedule (hereinafter referred to as the repealed Acts) are repealed.

(2) On and after the commencement date—

- (a) any existing loan or existing Government Security;
- (b) any agreement, approval, resolution, order, document or instrument made or given under a repealed Act with respect to any such loan or Government Security; and
- (c) any right, title, privilege conferred or any obligation, commitment or liability assumed under a repealed Act with respect to any such loan or Government Security,

shall, so long as the loan or Government Security is outstanding, continue to be binding, valid and enforceable as if the repealed Act had not been repealed.

(3) In relation to any guarantee given under the *Approved Organizations and Authorities Loans (Government Guarantee) Act* (hereinafter referred to as the Act) before the commencement date, and in respect of which the guarantee has not expired before

that date, the Act shall, for the duration of the guarantee, continue to have effect as if it had not been repealed; and accordingly, nothing in this Act shall affect the validity and enforceability of any agreement, approval, resolution, order or other instrument pertaining to any guarantee so given or to affect any right, privilege, obligation, commitment or liability related thereto.

(4) In this section references to an “existing loan” or an “existing Government Security” means respectively, a loan or Government Security that is made to or issued by the Government under a repealed Act and which is outstanding on the commencement date.

FIRST SCHEDULE (Section 5(2))

*Contents of the Medium-Term Public Debt
Management Strategy*

1. A quantification and analysis of the cost-risk trade-offs in different debt strategies and under alternative economic and financial conditions.
2. The risk characteristics of and inherent in the structure of the domestic debt, the external debt and the aggregate debt portfolio of the Government, the corresponding strategic targets and the analysis underlying the targets.
3. A profile of the liabilities of the Government, including guarantees and other explicit contingent liabilities, and an assessment of the corresponding risk.
4. Planned measures to promote development of the domestic market.
5. An annual borrowing plan.
6. Such other information as the Minister considers relevant.

SECOND SCHEDULE (Sections 7(3)
and 8(3))

PART I

Public Debt Management Committee

Constitution
of Public Debt
Management
Committee

1.—(1) The Public Debt Management Committee shall consist of six *ex-officio* members and a maximum of three appointed members.

(2) The following persons shall be *ex-officio* members of the Public Debt Management Committee, that is to say—

- (a) the Financial Secretary, who shall be the chairman;
- (b) the Deputy Financial Secretary in charge of economic management, who shall be the deputy chairman;
- (c) the Governor of the Bank;
- (d) the Accountant-General;
- (e) the Director-General of the Planning Institute of Jamaica; and
- (f) the Head of the unit in charge of debt management in the Ministry responsible for finance.

(3) The appointed members of the Public Debt Management Committee shall be—

- (a) one member appointed by the Minister, being an employee of a public body who is knowledgeable of, or experienced in, public debt management, public expenditure, or the formulation or implementation of macro-economic and fiscal policies; and
- (b) a maximum of two other members appointed by the Minister, being persons knowledgeable of, or experienced in, public debt management, public expenditure, or the formulation or implementation of macro-economic and fiscal policies.

(4) An appointed member of the Public Debt Management Committee shall hold office for a period not exceeding three years and each appointed member shall be eligible for re-appointment.

(5) Subject to the provisions of this Act, the Public Debt Management Committee shall regulate its own proceedings.

PART II

Public Debt Financing Committee

Constitution
of Public Debt
Financing
Committee

1.—(1) The Public Debt Financing Committee shall consist of four *ex-officio* members and five appointed members.

(2) The following persons shall be *ex-officio* members of the Public Debt Financing Committee—

- (a) the Head of the unit in charge of debt management in the Ministry responsible for finance, who shall be the chairman;
- (b) the Director of Portfolio Management in the unit in charge of debt management in the Ministry responsible for finance, who shall be the deputy chairman;
- (c) the Director of Research and Analysis in the unit in charge of debt management in the Ministry responsible for finance, who shall be the secretary; and
- (d) the Director of Debt Operations in the unit in charge of debt management in the Ministry responsible for finance.

(3) The appointed members shall be—

- (a) a representative of the Bank;
- (b) a representative of the Accountant-General's Department;
- (c) a representative of the unit in charge of the management of fiscal policy in the Ministry responsible for finance;
- (d) a representative of the division in charge of public enterprises in the Ministry responsible for finance; and
- (e) a representative of the division in charge of public expenditure in the Ministry responsible for finance.

(4) An appointed member of the Public Debt Financing Committee shall hold office for a period not exceeding three years and each appointed member shall be eligible for re-appointment.

(5) Subject to the provisions of this Act, the Public Debt Financing Committee shall regulate its own proceedings.

THIRD SCHEDULE (Section 27)
Amendment of Acts

Bank of Jamaica Act

Section 38 Delete the words “and generally in respect of the management of the public debt of Jamaica” and substituting therefor the words “in respect of Government Securities (within the meaning of the Public Debt Management Act)”.

Financial Administration and Audit Act

Section 48C(2) Delete the words “the following grounds specified by the Minister by order subject to affirmative resolution—

- (a) national security;
- (b) national emergency;
- (c) any other occurrence that is severe in its impact on the economy.”

and substitute therefor the words “the grounds specified in paragraphs (f), (g) and (j) of section 10 of the Public Debt Management Act”.

Section 48D

1. Delete paragraph (a) and substitute therefor the following—

- “(a) the total debt is to be reduced to a prudent and sustainable level and thereafter maintained at the lowest possible cost over the medium term, that is to say, a three to five year period, while keeping risks at acceptable levels;”.

2. Delete paragraph (c) and substitute therefor the following—

- “(c) borrowings shall be used only for the purposes set out in section 10 of the Public Debt Management Act with the objective of promoting productivity, competitiveness and economic growth”.

FOURTH SCHEDULE (Section 28)

Repealed Acts

Approved Organizations and Authorities

Loans (Government Guarantee) Act

Debentures (Local) Act

Government Securities Dematerialization Act, 2010

Land Bonds Act

Loans Act, 1964

Loans (Additional Powers) Act

Loans (Canada, USA and Other Specified Countries) Act

Loans (Caribbean Development Bank) Act

Loans (Equity Investment Bonds) Act

Loans (Inter American Development Bank) Act

Loans (Local Authorities) Act

Loans (Local) (Temporary Borrowings) Act

Loans (National Development Bonds) Act

Loans (National Savings Bond) Act

Loans (OPEC Special Fund) Act

Loans (Overseas) (Temporary Borrowings) Act

Loans (World Bank) Act

Local Registered Stock Act

Treasury Bills Act

Passed in the House of Representatives this 20th day of November, 2012
with two (2) amendments.

MICHAEL PEART,
Speaker.

MEMORANDUM OF OBJECTS AND REASONS

At present, the power of the Minister with responsibility for finance to raise loans for and on behalf of the Government of Jamaica is conferred in several enactments, some of which have fallen into disuse. This Bill seeks to amend, consolidate and modernize the law relating to the management of the public debt of Jamaica. The Bill seeks to provide a single statutory source for the Minister's authority to borrow money for and on behalf of the Government both within and outside of Jamaica, whether in Jamaican currency or foreign currency.

Provisions of the Bill make it clear that loans raised by the Government and amounts guaranteed by the Government are charged on, and payable out of the Consolidated Fund.

The Bill introduces various features aimed at ensuring that the public debt is managed in a more strategic manner. These include—

- (a) the prescription of the purposes for which loans borrowed by the Government should be utilized;
- (b) a duty placed on the Minister to table in the House of Representatives, a Medium-Term Public Debt Management Strategy covering a three to five year period, that is subject to annual review;
- (c) with a view to ensuring coherence among fiscal, monetary and debt policies, the establishment of a high level Public Debt Management Committee; and
- (d) the requirement that there should be tabled in the House of Representatives in each financial year a full report on the management of the public debt, including an indication of the level of compliance with the Medium-Term Public Debt Management Strategy and an assessment of the extent to which the debt management objectives specified in the law are being achieved.

The Minister is given explicit authority to engage in various arrangements with respect to loans, including the conversion of a loan from one form to another, the renegotiation of terms and conditions and the consolidation of two or more loans. The Minister may also undertake portfolio management operations, including swaps and other derivative transactions, buybacks and switches, taking into account the debt management objectives specified in the Bill.

The Bill provides for the making of regulations to give better effect to the provisions of the Act. It further seeks to ensure that the fiscal targets and

fiscal management principles set out in sections 48C and 48D of the *Financial Administration and Audit Act* are taken into account in the management of the public debt. The *Bank of Jamaica Act* is also amended to remove the responsibility for debt management from the Bank. This responsibility was transferred, *de facto*, in April 1998, to the unit in charge of debt management in the Ministry responsible for finance.

Further, the Bill repeals several enactments related to the raising of loans. In order to maintain the validity of existing loans made to the Government under these enactments as well as existing guarantees given by the Government under the repealed enactments, appropriate savings provisions have been included in the Bill.

PETER PHILLIPS
Minister of Finance and Planning.

ABILL

ENTTTLED

AN ACT to to Make provision for the better management of the public debt; to repeal the Loan Act, 1964, and several enactments related to the raising of loans by the Government; and for connected matters.

As passed by the Honourable House of Representatives.

SECTION 38 OF THE BANK OF JAMAICA ACT
WHICH IT IS PROPOSED TO AMEND

38 The Bank shall, at the request of the Minister and subject to such terms and conditions as may be agreed between the Minister and the Bank, act as agent for the Government in the payment of interest and principal and generally in respect of the management of the public debt of Jamaica.

SECTION 48C (2) OF THE FINANCIAL ADMINISTRATION
AND AUDIT ACT WHICH IT IS PROPOSED TO AMEND

... ..

“ (2) The targets specified in subsection (1)(a) to (d) may be exceeded on any of the following grounds specified by the Minister by order subject to affirmative resolution—

- (a) national security;
- (b) national emergency; or
- (c) any other occurrence that is severe in its impact on the economy.

SECTION 48D OF THE FINANCIAL ADMINISTRATION AND
AUDIT ACT WHICH IT IS PROPOSED TO AMEND

In exercising functions under this Part, the Minister shall act in conformity with the following fiscal management principles—

- (a) the total debt is to be reduced, and thereafter maintained at a prudent and sustainable level;

... ..

- (c) borrowings are to be geared toward investment activities that support productivity and economic growth; and

... ..