
CHAPTER 46B**EDUCATION LOAN AUTHORITY**

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SCHEDULE

CHAPTER 46B

EDUCATION LOAN AUTHORITY

An Act to establish an education loan authority to provide for the functions and powers of that authority and for incidental matters. *32 of 2002*
12 of 2015

[Assent 30th December, 2002]

[Commencement 13th February, 2003] *S.I. 6/2003*

1. This Act may be cited as the Education Loan Authority Act. Short title.

2. In this Act — Interpretation.

“approved institution” means an institution of higher education approved by the Minister; *12 of 2015, s.2.*

“Authority” means the Education Loan Authority established under section 3;

“Bank” means the Bank of The Bahamas International Limited;

“Board” means the Board of Directors of the Education Loan Authority;

“borrower” means a person who is granted a loan by the Authority for the purposes of this Act and includes —

(a) a parent or guardian of the student to whom the loan relates;

(b) the endorser of a deed, agreement, promissory note, or other instrument, issued by the Authority as security for the loan;

“education sector policy” means the policy of the Minister for educational development referred to in section 14;

“Government” means the Government of the Commonwealth of The Bahamas;

“loan” means a loan granted by the Authority which complies with section 15;

“Loan Support Unit” or “Unit” means the unit within the Authority established by section 17;

“member of the Education Loan Authority” means in relation to the Schedule a member of the Board;

“Minister” means the Minister responsible for Education; and

“repealed Act” means the Educational Guarantee Fund Act.

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Establishment of Education Loan Authority.
12 of 2015, s.3.

3. (1) There is established a body corporate to be known as the Education Loan Authority.

(2) There shall be a Board of Directors of the Authority.

12 of 2015, s.3.

(3) The Board is the governing body of the Authority and shall perform the functions and duties and exercise the powers of the Authority.

Schedule.
12 of 2015, s.3.

(4) The Schedule has effect with respect to the constitution and proceedings of the Education Loan Authority and the Board of Directors.

Functions, duties and powers of the Authority.
12 of 2015, s.4.

4. (1) The functions, duties and powers of the Education Loan Authority are to —

- (a) process applications made in accordance with section 15 for the grant of a loan under this Act;
- (b) require an applicant to provide such information as the Authority determines necessary to process the application;
- (c) conduct a means test for each applicant as the Authority determines to be required;
- (d) grant, modify and revoke loans in accordance with the provisions of this Act and the education sector policy;
- (e) advise the Minister on the status of loans;
- (f) formulate and implement standards and criteria for grants and disbursements of loans having regard to the education sector policy;
- (g) regulate, allocate, and manage the use of the resources available under this Act for the grant of loans to approved institutions;
- (h) publish information, reports and other documents;
- (i) raise moneys required to fund the grant of loans by the Authority;

- (j) manage and administer through the Loan Support Unit the recovery of delinquent loans and receivables; and
- (k) assume all liabilities of the Government to the Bank, and recover all receivables, in relation to the guarantee of loans under the repealed Act which are outstanding on the date this Act comes into force.

(2) The Authority, in carrying out its functions, duties and powers under this Act — *12 of 2015, s.4.*

- (a) shall at all times act in a manner that is timely, transparent, non-discriminatory, and consistent with the requirements, aims and objectives of the education sector policy;
- (b) may do all acts as appear to the Authority to be requisite, advantageous or convenient for, or incidental to, the proper discharge of such functions, duties and powers;
- (c) may, alone or in association with any other person, carry on any activities in that behalf.

5. (1) The funds and resources of the Education Loan Authority shall consist of —

Funds and resources of the Education Loan Authority.

- (a) any moneys as from time to time are provided by Parliament;
- (b) any moneys as from time to time are borrowed by the Education Loan Authority or raised by the Education Loan Authority pursuant to section 8;
- (c) any moneys as from time to time are advanced to the Education Loan Authority pursuant to section 10.

(2) Funds and revenues of the Education Loan Authority shall be applied in the discharge of all expenditure properly incurred in the carrying out of the function mentioned in section 4, in the repayment of any sums borrowed under section 8, and any interest payable in respect of those sums, in the payment of interest on bonds and dividends on shares and stock issued under section 8, for disbursements towards the remuneration and allowances to the officers, employees and members of the Education Loan Authority, to repayment of any advance made under section 10 and the payment of any sums issued in fulfilment of any guarantee given under section 10 as determined by the Education Loan Authority.

Surplus funds.

6. At the end of each financial year, any moneys standing to the credit of the Education Loan Authority and not required for any current purpose shall, after consultation with the Minister of Finance, be paid into a reserve fund.

Reserve Fund.

7. (1) The Education Loan Authority shall establish a reserve fund.

(2) The management of the reserve fund and the application thereof, shall be as the Education Loan Authority may determine, but no part of the fund shall be applied otherwise than for the purpose of the Education Loan Authority.

Borrowing and raising capital.

8. (1) The Education Loan Authority may, with the prior approval of the Minister after the Minister has consulted with the Minister of Finance, borrow or raise capital required by it for meeting its obligations or discharging its function and may in respect of any borrowing issue debentures, debenture stock or raise capital by the issue of bonds, shares or stock of such class and value and upon such terms as the Education Loan Authority may deem expedient.

(2) An approval given for the purposes of subsection (1) may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

(3) Notwithstanding subsection (1), the Education Loan Authority may not borrow or raise capital of an amount exceeding one hundred million dollars.

(4) The Education Loan Authority may, with the prior approval of the Minister, make regulations to provide for such matters in connection with bonds, shares, stock, debentures or debenture stock issued under this Act as may appear necessary or expedient to the Education Loan Authority, and, in particular, for regulating the method of issue, transfer, redemption, or other dealing with such bonds, shares, stock, debentures or debenture stock.

Sinking fund.

9. Notwithstanding subsection (4) of section 8, the Education Loan Authority shall establish a sinking fund for the redemption of any security so issued and may postpone a sinking fund contribution for such period or periods of time as may be approved by the Minister after the Minister has consulted with the Minister of Finance.

10. (1) Subject to subsection (3), the Minister of Finance may make advances to the Education Loan Authority for the purposes of enabling the Education Loan Authority to defray expenditure properly chargeable to its capital account, including provision of working capital.

Advances and guarantee of borrowings by the Government of The Bahamas.

(2) Subject to subsection (3), the Minister of Finance may guarantee, in writing on any such conditions as he thinks fit, the repayment of the principal of, and the payment of interest and other charges on, any authorised borrowings of the Education Loan Authority made under section 8.

(3) No advance shall be made and no guarantee shall be given under this section unless prior approval thereof has been signified by the House of Assembly in accordance with section 18 of the Financial Administration and Audit Act.

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(4) Where a sum is paid pursuant to a guarantee given under this section, the Minister of Finance shall as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereof is finally discharged, lay before the House of Assembly a statement relating to that sum.

(5) A sum required by the Minister of Finance for making an advance and discharging a guarantee under this section shall be charged on and issued out of the Consolidated Fund.

11. (1) The Education Loan Authority shall make to the Minister of Finance at such times and in such manner as the Minister of Finance may direct, payments of any amount as may be so directed in or towards repayment of an advance made to the Education Loan Authority under section 10 and of any sums issued in fulfillment of a guarantee given under section 10 and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister of Finance may direct, and different rates of interest may be directed with respect to different periods.

Payment of, and interest on advances and sums issued to meet guarantee.

(2) The Minister of Finance shall lay before the House of Assembly a statement of any payments due from the Education Loan Authority under subsection (1) that is not duly paid to him as required thereunder.

Accounts and
audit.

12. (1) The Education Loan Authority shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year of the Education Loan Authority a statement of accounts in such form as the Minister may direct.

(2) The accounts of the Education Loan Authority for each financial year shall be audited by an auditor appointed by the Minister.

(3) Three months after the end of each financial year the Education Loan Authority shall submit a copy of the audited accounts to the Minister together with a copy of any report made by the auditor.

(4) The Minister shall lay a copy of the audited accounts before each House of Parliament, together with a copy of any report made by the auditor on the accounts.

Directions.

13. The Minister may give written directions to the Education Loan Authority concerning the performance of its function, powers and duties, either generally or in relation to a particular matter, and the Educational Loan Authority shall give effect to those directions.

Education sector
policy.
12 of 2015, s.5.

14. (1) The Minister shall —

(a) formulate and implement a sector policy detailing —

(i) the aims and plans of the Minister for educational development in The Bahamas;

(ii) criteria for the efficient use and management of sector resources;

(iii) the manner in which educational development is expected to effect economic change and facilitate the fulfilment of social objectives in The Bahamas;

(b) publish the education sector policy within seven days of the signing of the policy by the Minister —

(i) in the Gazette;

(ii) in two newspapers of general circulation in The Bahamas for two consecutive days; and

(iii) electronically by such means as the Minister may determine.

(2) The Minister —

(a) may from time to time amend the sector policy;
and

(b) shall publish each amended sector policy in accordance with the requirements of paragraph (b) of subsection (1).

(3) The education sector policy takes effect on its first publication by the Minister in a manner referred to in paragraph (b) of subsection (1).

(4) The Education Loan Authority shall, in carrying out its functions, duties and powers under this Act, have regard to and grant loans in a manner consistent with the objectives and requirements of the education sector policy as published by the Minister.

15. (1) An application for the grant of a loan by the Authority under this Act shall be made to the Authority in the prescribed form —

Grant of
education loans.
12 of 2015, s.5.

- (a) prior to the student to whom the loan relates entering an approved institution; or
- (b) where the student currently attends an approved institution, before the loan funds are required.

(2) The Education Loan Authority may grant a loan where —

- (a) the purpose of the loan is to provide assistance for university or college education or training at an approved institution of higher education;
- (b) the student to whom the loan relates —
 - (i) is a citizen of The Bahamas of sixteen years of age or more;
 - (ii) has been accepted into an approved institution;
- (c) each borrower is eighteen years of age or more;
- (d) the total amount of the loan and the advances made under the loan are in compliance with the education sector policy;
- (e) the loan is made on terms that —
 - (i) all money borrowed shall be repaid in accordance with the education sector policy; and
 - (ii) subject to subsection (3), there is in effect a valid policy of insurance on the life of the borrower, for such an amount as is sufficient to cover the full amount of the loan, with an insurance company registered under the Insurance Act.

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(3) The Minister may, where a borrower does not qualify for a policy of insurance, direct the Authority in writing to waive the requirement of insurance referred to in paragraph (e)(ii) of subsection (2).

(4) The rate of interest chargeable by the Authority and payable by a borrower on a loan made under this Act shall be in accordance with the education sector policy.

(5) The aggregate amount of all borrowings at any time outstanding in relation to loans granted by the Authority under this Act shall be in accordance with the education sector policy.

(6) The Authority shall give each applicant for a loan notice of the decision made by the Authority in such form and within such period of time as may be prescribed.

16. (1) A person aggrieved by a decision of the Education Loan Authority —

- (a) refusing an application for a loan;
- (b) modifying a loan;
- (c) revoking a loan,

may apply to the Minister for a review of the decision.

(2) An application for a review by the Minister must —

- (a) be made in writing;
- (b) give particulars of the decision which the aggrieved person wants to be reviewed;
- (c) include any material or representations that the aggrieved person wants to be taken into account; and
- (d) be delivered to the Minister within thirty days after the aggrieved person is given notice of the decision by the Authority.

(3) The Minister may, on review of a decision made by the Authority, confirm, vary, or reverse the Authority's decision.

17. (1) There is established for the purposes of this Act a unit within the Education Loan Authority to be known as the Loan Support Unit.

(2) The functions, powers and duties of the Unit are to —

Review on
refusal of grant
of loan.
12 of 2015, s.5.

Loan Support
Unit.
12 of 2015, s.5.

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- (a) implement and manage, as part of an efficient and sustained collection effort, an effective collection overview program in relation to the Authority's delinquent student loan portfolio;
 - (b) provide and ensure control overview and support for the collection of all outstanding and delinquent loans;
 - (c) regularise and facilitate the increased monthly collection of loan payments;
 - (d) classify borrowers in specific categories, including —
 - (i) graduate;
 - (ii) employed;
 - (iii) underemployed;
 - (iv) unemployed;
 - (v) Government employee;
 - (vi) persons residing outside The Bahamas;
 - (e) utilising the classification of borrowers, provide customised assistance and key performance indicators to the Minister and the general public as necessary or desirable;
 - (f) locate and track borrowers in default;
 - (g) consult and liaise with borrowers in default to facilitate the collection process;
 - (h) provide regular key performance indicators to the Board;
 - (i) recommend corrective actions for the approval of the Board in respect of delinquent loans;
 - (j) review and reconcile the Authority's and the Bank's delinquent clients' listings in relation to paragraph (k) of subsection (1) of section 4.

(3) In this section a borrower is “in default” and a loan is “delinquent” where payments due under the loan have been outstanding for a period of two hundred and seventy-five days.

18. All loans granted by the Education Loan Authority prior to the coming into force of this Act are declared to be valid to the extent they would have been valid if this Act had been in force at the time the Authority granted the loans.

Validation of
prior loans.
12 of 2015, s.5.

Offences.

12 of 2015, s.5.

19. (1) A person commits an offence who for any purpose of this Act —

- (a) gives any information or makes any statement which he knows to be false in a material particular; or
- (b) recklessly makes any statement which is false in a material particular.

(2) A person who commits an offence referred to in subsection (1) shall be liable on summary conviction to a fine not exceeding three thousand dollars.

Regulations.

12 of 2015, s.5.

20. (1) The Minister may make regulations for the carrying out by the Authority of all or any of the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may in particular make regulations prescribing —

- (a) the form and content of all applications, notices, or other documents required for use under or pursuant to this Act or the regulations;
- (b) institutions of higher education approved by the Minister for the purposes of this Act;
- (c) conditions for the grant, modification and revocation of loans by the Authority;
- (d) anything by this Act required to be prescribed.

Repeal.

12 of 2015, s.5.

21. Repeal.

SCHEDULE (Section 3 (2))**A BODY CORPORATE**

1. (1) The Education Loan Authority shall be a body corporate established for public purposes having perpetual succession and a common seal, with power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatsoever kind. Incorporation.

(2) The Education Loan Authority may sue and be sued in its corporate name and may for all purposes be described by such name, and service upon the Education Loan Authority of any document of whatsoever kind must be made by delivering the document to or sending it by prepaid registered post addressed to the secretary of the Education Loan Authority at the office of the Education Loan Authority.

(3) All property acquired or becoming vested in the Education Loan Authority shall be held by the Education Loan Authority in trust for Her Majesty in right of Her Government of the Commonwealth of The Bahamas for public purposes.

2. The Board of Directors of the Education Loan Authority shall consist of — Chairman and Members of the Education Loan Authority.

- (a) the following persons to be appointed by the Governor-General after consultation with the Minister, that is to say, a Chairman, a Deputy Chairman and four other members, being persons who have wide experience in, and have shown capacity in financial or commercial matters, education, industry, law or administration; and *12 of 2015, s.6.*
- (b) the Permanent Secretary of the Ministry of Education, or a person designated by the Permanent Secretary, *ex officio*; *12 of 2015, s.6.*

and paragraphs 1 and 3 to 12 of this Schedule shall have effect in relation to the Education Loan Authority, but subject, in the case of the Permanent Secretary of the Ministry of Education to the special provisions of paragraph 14.

3. Subject to paragraphs 8 and 9, a member of the Education Loan Authority shall hold office for such period, not exceeding three years, as the Governor-General may direct in the instrument appointing such member, but such member shall be eligible for re-appointment. Tenure of office.

4. The Governor-General shall appoint a Chairman and Deputy Chairman of the Education Loan Authority from among Chairman and Deputy Chairman.

members and, if the Chairman is absent or unable to act, the Deputy Chairman shall act as Chairman during the time such absence or inability continues.

Temporary
appointment to
Education Loan
Authority.

5. The Governor-General may by instrument in writing appoint some suitable person as a member of the Education Loan Authority to act temporarily in the place of any member of the Education Loan Authority in the case of the absence or inability of such member to act.

Resignation.

6. (1) A member of the Education Loan Authority other than the Chairman may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause it to be forwarded to the Governor-General and from the date of the receipt by the Chairman of the instrument, the member shall cease to be a member of the Education Loan Authority.

(2) The Chairman of the Education Loan Authority may at any time resign his office by instrument addressed to the Governor-General and, from the date of the receipt by the Governor-General of the instrument, the Chairman shall cease to be Chairman or a member of the Education Loan Authority.

Removal.

7. The Governor-General may by instrument in writing revoke the appointment of any member of the Education Loan Authority if the Governor-General thinks it expedient so to do.

Publication.

8. The appointment, removal, death or resignation of a member of The Education Loan Authority shall be notified in the Gazette.

Remuneration.

9. There shall be paid from the funds of the Education Loan Authority to the Chairman and other members of the Education Loan Authority such remuneration, if any, whether by way of honorarium, salary or fees, and such allowances, if any, as the Minister may determine.

Seal.

10. (1) The seal of the Education Loan Authority shall be kept in the custody of an officer of the Education Loan Authority as the Education Loan Authority may approve, and may be affixed to instruments pursuant to a resolution of the Education Loan Authority and in the presence of the Chairman or the Deputy Chairman and one other member.

(2) All documents, other than those required by law to be made under seal and all decisions of the Education Loan Authority may be signified under the hand of the Chairman or Deputy Chairman.

11. (1) The Education Loan Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Chairman may determine.

Proceedings and meetings.

(2) The Chairman, or in his absence the Deputy Chairman shall preside at all meetings of the Education Loan Authority.

(3) The Chairman, or in his absence, the Deputy Chairman and three other members of the Education Loan Authority shall form a quorum.

(4) The decisions of the Education Loan Authority are by a majority of votes and, in addition to an original vote, in any case in which the voting is equal the Chairman or the Deputy Chairman presiding at the meeting has a casting vote.

(5) Minutes in proper form of each meeting are to be kept by the secretary or any officer the Education Loan Authority may appoint for that purpose, and confirmed by the Education Loan Authority at the next meeting and signed by the Chairman or the Deputy Chairman as the case may be.

(6) The Education Loan Authority may co-opt any one or more persons to attend any particular meeting of the Education Loan Authority for the purpose of assisting or advising the Education Loan Authority in any matter with which the Education Loan Authority is dealing, but no co-opted person has the right to vote.

(7) The validity of any proceedings of the Education Loan Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

12. The Education Loan Authority is exempt from liability for any tax, duty, rate, levy or other charge whatsoever.

Exemptions.

13. Subject to this Schedule the Education Loan Authority has the power to regulate its own proceedings.

The Education Loan Authority to regulate own proceedings.

14. The following provisions of this Schedule shall not apply to the Permanent Secretary of the Ministry of Education, that is to say, paragraph 3; paragraph 5; paragraph 6; and paragraph 7.

Special provisions regarding the Permanent Secretary of the Ministry of Education.
12 of 2015, s.6. Staff.

15. (1) The Education Loan Authority may appoint and employ on such terms and conditions as it thinks fit, any officer, servant or agent that the Education Loan Authority considers

necessary for the proper carrying out of the provisions of this Act.

(2) Notwithstanding subsection (1), the Minister may appoint and employ on such terms and conditions as the Minister thinks fit, a chief administrative officer and a financial officer.

Pension of persons transferred from public service to the Education Loan Authority.

16. (1) Where a public officer holding a pensionable office under the Government of The Bahamas, ceases to be the holder of that office by reason of his transfer with his consent to the service of the Education Loan Authority and that person subsequently retires from the service of the Education Loan Authority in such circumstances that, had he remained a public officer, he would have been eligible for pension under the Pensions Act, then in any such case subsections (2) and (3) shall have effect.

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(2) A pension payable to a person mentioned in subsection (1) by the Education Loan Authority to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government of The Bahamas and with the Education Loan Authority taken together and such service shall be reckoned as continuous for pension purposes.

(3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the Education Loan Authority a contribution to every pension paid in accordance with subsection (2), such amounts as would have been payable to the person concerned by way of pension under the Pensions Act, if that person had retired from the public service and if he has been granted a pension under the Pensions Act upon the date of his ceasing to be a public officer.

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Ch. 43.

Pensions, etc.

17. (1) The Education Loan Authority may, as regards any officer, servant or agent in whose case it may be determined by the Education Loan Authority, with the approval of the Minister of Finance, to make provision for the payment on the death, injury or retirement of that officer, servant or agent, pension, gratuity or other like benefit, pay or provide for the payment of that pension, gratuity or other like benefit to the officer, servant or agent or to others by reference to their service as may be determined.

(2) Provision for pensions, gratuities or other like benefits under this section may be either by contributory or non-contributory arrangements or partly by the one or by the other.