
CHAPTER 46B**EDUCATION LOAN AUTHORITY**

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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*

[Assent 30th December, 2002]

[Commencement 13th February, 2003] *SI 6/2003*

1. This Act may be cited as the Education Loan Authority Act. Short title.
2. In this Act “Minister” means the Minister responsible for Education. Interpretation.
3. (1) There is established a body corporate to be known as the Education Loan Authority. Establishment of Education Loan Authority.
 (2) The Schedule has effect with respect to the constitution and proceedings of the Education Loan Authority. Schedule.
4. (1) The Education Loan Authority is charged with the responsibility of raising moneys for the educational loan guarantee scheme established under the Educational Guarantee Fund Act. Functions and powers of the Education Loan Authority.
Ch. 46A.
 (2) In carrying out its functions the Education Loan Authority shall have the power to do all acts as appear to it to be requisite, advantageous or convenient for or incidental to its proper discharge and may carry on any activities in that behalf alone or in association with any other person.
- (3) Without prejudice to the generality of subsection (2), the Education Loan Authority shall assume all existing liabilities incurred by the Government of The Bahamas prior to the commencement of this Act in relation to the funding of the educational loan guarantee scheme established under the Educational Guarantee Fund Act. Ch. 46A.
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.

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.

Sinking fund

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 17 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.

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

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.

(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.

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 Education Loan Authority shall consist of —

- (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 Chairman and Members of the Education Loan Authority.
- (b) the Educational Guarantee Fund Act’s Chairman of the Education Committee, *ex-officio*, Ch. 46A.

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 Chairman of the Education Committee 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 members and, if the Chairman is absent or unable to act, the Chairman and Deputy Chairman.

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.

Proceedings and
meetings.

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.

(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 Chairman of the Education Committee, that is to say, paragraph 3; paragraph 5; paragraph 6; and paragraph 7. Special provisions regarding the Chairman of the Education Committee.

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. Staff.

(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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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.