



BAYELSA STATE GOVERNMENT

**DEBT MANAGEMENT OFFICE
LAW, 2009**

BAYELSA STATE
DEBT MANAGEMENT OFFICE
LAW, 2009

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GOVERNMENT OF BAYELSA STATE OF NIGERIA

BAYELSA STATE DEBT MANAGEMENT OFFICE LAW, 2009

A Law to provide for the sustainable and prudent management of the State's debts and to establish the Debt Management Office and Debt Management Committee; and other matters related therewith.

Commencement

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NOW THEREFORE BE IT ENACTED by the Bayelsa State House of Assembly as follows:

PART I – ESTABLISHMENT OF THE DEBT MANAGEMENT OFFICE, ETC

Establishment
of the Debt
Management
Office

Establishment of the Debt Management Office

- 1** (1) There is established a body to be known as the Debt Management Office (in this Law referred to as "**Office**") which –
- a. shall be "a body" corporate with perpetual succession and a common seal;
 - b. may sue and be sued in its corporate name; and
 - c. may acquire, hold and dispose of moveable or immovable property for the purpose of carrying out any of its functions under this Law.

Composition of the Debt Management Committee

- 2** (1) There is established for the Office a Debt Management Committee (in this Law referred to as "the Committee") which shall consist of-
- (a) Honourable Commissioner for Finance and Budget - Chairman;
 - (b) Honourable Attorney General/ Commissioner for Justice - Member;
 - (c) Accountant General of Bayelsa State -Member;
 - (d) Chairman Governing Board, Fiscal Responsibility Commission -Member;
 - (e) Director and Head, Bayelsa State Debt Management Office -Secretary.

PART II – FUNCTIONS OF THE OFFICE, ETC**Functions of the Office**

- 3** (1) The Office shall
- (a) formulate the State's public debt policy and strategy to meet with the developmental aspirations of the State Government;
 - (b) maintain a reliable database of all loans taken or guaranteed by the State Government, or any of its agencies including special purpose vehicles, and of all arrears and contingent liabilities;
 - (c) prepare and submit to the State Government, a forecast of loan service obligations for each financial year;

- (d) prepare and implement a Medium Term Debt Management Strategy consistent with the Medium Term Expenditure Framework for the efficient management of Bayelsa State Government's external and domestic debt obligations at sustainable levels compatible with the desired economic objectives for growth and development and participate in negotiations aimed at realizing those objectives;
- (e) on a yearly basis, conduct Debt Sustainability Analysis to inform the review of the Medium term Debt management Strategy and on the basis of the foregoing;
 - (i) submit to the State Government for consideration in the annual budget, a forecast of borrowing capacity in local and foreign currencies;
 - (ii) advise the State Government on the restructuring and refinancing of all debt obligations, possible new funding sources and the terms and conditions on which loans are to be procured.
- (f) verify and reconcile the State Government's external debts with the Federal Debt Management office;
- (g) verify and service domestic debts guaranteed by or directly taken by the State Government;
- (h) on agency basis, service external debts taken by the State Government or any of its agencies where such debts are guaranteed by the State Government;

- (i) liaise with the Office of the Accountant-General for repayments of loans guaranteed or directly taken by the State Government;
- (j) Undertake debt studies, analysis and diagnosis and disseminate the results to the general public and;
 - i. prepare periodic debt performance reports;
 - ii. publish up-to-date debt statistics on the State;
 - iii. provide timely and accurate information, data and forecasts on the State's debt to assist policy makers;
 - iv. prepare and update standard loan contract agreements;
- (k) establish and maintain relationships with international and local financial institutions, multilateral and other development agencies, the Federal Debt Management Office and Fiscal Responsibility Commission, Creditors and institutional investors in government debts and secure concessionary loans to meet the State's development plans.
- (l) organise training and capacity building programmes for debt management professionals;
- (m) furnish the Federal Debt Management Office on a ^{quarterly} half yearly basis with details of all loans, arrears and contingent liabilities and reports on various stages of drawdown on facilities and utilization of same by borrowers;
- (n) for the purposes of transparency and accountability, the office shall:
 - (i) publish and explain the provisions of this Law

- (ii) establish a single internet portal that shall service as a Primary and definitive source of all information on public debts, containing and displaying all Public Sector debts, arrears and contingent liabilities at all times;
- (o) perform any other functions, which may be delegated to it by the Commissioner, by a Law of the State Assembly or any other functions which in the opinion of the Office are required for effective implementation of its functions under this Law.
- (2) Notwithstanding the provisions of sub-section (1) of this section, the Office shall administer the debt conversion programme of the State Government.

Powers of the Office

4 The Office shall have power to –

- (a) issue and manage State Government loans issued in Nigeria upon such terms and conditions as may be directed by the Committee.
- (b) compel any person, government institution or a special purpose vehicle to disclose information relating to public debts, arrears, guarantees and contingent liabilities.
- c. issue from time to time guidelines for the smooth operation of the debt conversion programme of the State Government; and
- d. do such other things which in the opinion of the Committee relate to the management of the debts of the State Government.

Functions of the Committee

5 The Committee shall –

- (a) approve the policies, strategies, plans and procedures to be adopted by the Office for the achievement of its objectives;
- (b) review and approve the debt management policies and strategies of the State;
- (c) review, from time to time, the economic and political impact of domestic and external debt management strategies;
- (d) appoint, as and when necessary, technical committees comprised of persons with requisite technical competence from the private or public sector to advise the Office on such matters as may be determined from time to time;
- (e) identify internal and external financing options for the State as well as the terms and conditions of such loans, and present to the State Executive Council and the House of Assembly for approval;
- (f) support the DMO and Ministry of Justice in negotiating and harmonizing loan terms and conditions;
- (g) oversee the solicitation of approval of loans by the State House of Assembly;
- (h) facilitate the securing of Federal Government guarantee on loans;
- (i) perform such other functions as may, from time to time, be necessary to achieve the objectives of the Office.

PART III – STAFF & APPOINTMENTS

Appointment
of Director

Appointment of Director

- 6 (1) There shall be for the Office, a Director, who shall be the Chief Executive and Accounting Officer.
- (2) The Director shall-
- (a) be appointed by the Governor subject to the confirmation of the State House of Assembly and shall not be below the rank of a Permanent Secretary in the civil service of the State.
 - (b) have knowledge of economic, financial, budgetary and planning matters;
 - (c) hold office for a period of 4 years in the first instance and may be re-appointed for another term of 4 years and no more;
 - (d) be responsible to the Committee for policy direction and day- to-day administration of the Office; and
 - (e) hold office on terms and conditions as may be determined by the Committee or as may be contained in his letter of appointment.

Appointment
of other
Staff

Appointment of Other Staff of the Office

- 7 (1) The Committee shall appoint for the Office such other number of employees as may in the opinion of the Committee be expedient and necessary for the proper and efficient performance of the functions of the Office.
- (2) The terms and conditions of service (including remuneration, allowances, benefits and pensions) of the employees of the Office shall be determined by the

Committee based on the recommendations of the Management Team.

Provided that such officers seconded or transferred shall not be subject to the rotation policies of the civil Service.

- (3) The Committee shall have power to –
- (a) appoint,
 - (b) receive on -
 - (i) transfer or
 - (ii) secondment

from the public service in the State, such number of employees as may, in the opinion of the Committee, be required to assist the Office in the discharge of any of its functions under this Law.

Staff Regulation

- 8** (1) The Committee may make staff regulations relating generally to the conditions of service of the employees of the Office and without prejudice to the generality of the foregoing, such regulations may provide for –
- (a) the appointment, promotion and discipline (including dismissal) of employees of the Office; and
 - (b) appeals by such employees against dismissal or other disciplinary measures and until such regulations are made, any instrument relating to the conditions of service of officers in the Civil Service of the State shall be applicable, with such modifications as may be necessary, to the employees of the Office.

- (2) Staff regulations made under subsection(1) of this section shall be published and copies made available to all staff and employees of the office.

Pensions
and
gratuities

Services in the Office to be Pensionable

- 9 (1) The officers and other persons employed in the Office shall be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades in the civil service of the State.
- (2) Nothing in subsection(1) of this section shall prevent the appointment of a person to any office on terms which preclude the grant of pension or gratuity in respect of that office.
- (3) For the purpose of the application of the provisions of this section, the Committee shall exercise the powers to make regulations.

Establishment
of
management
team

Establishment of Management Team

- 10 There shall be for the Office a Management Team which shall comprise the Director and the heads of departments of the Office and it shall be responsible for the implementation of the policies of the Committee and the day-to-day administration of the Office.

PART IV – FINANCIAL PROVISIONS**Establishment of a Fund for the Office**

- 11 (1) There is established for the Office a fund from which shall be defrayed all expenditures incurred by the Office.
- (2) There shall be paid and credited to the Fund -
- (a) the sums appropriated by the State House of Assembly for the running of the office;
 - (b) such moneys as may, from time to time, be granted or lent to the office by the State, a State Government or a Local Government;
 - (c) all moneys raised for the purposes of the Office by way of gifts, loan, grants-in-aid, testamentary disposition or otherwise;
 - (d) all subventions, fees, charges for services rendered or publications made by the office; and
 - (e) all other assets that may, from time to time, accrue to the Office.
- (3) The Fund shall be managed in accordance with the rules made by the Committee and without prejudice to the generality of the power to make rules under this Subsection the rules shall in particular contain provisions-
- (a) specifying the manner in which the assets or the fund of the Office are to be held, and regulating the making of payments into and out of the Fund; and

- (b) requiring the keeping of proper accounts and records for the purpose of the fund in such form as may be separated in the rules.

Expenditure **Expenditure of the Office**

- 12 (1) The Office shall apply the proceeds of the Fund to –
- (a) the cost of the administration of the Office;
 - (b) the payment of the salaries, fees, remunerations, allowances, pensions and gratuities payable to the members of the Committee and employees of the Office;
 - (c) the payment for all consultancies, contracts, including mobilization, fluctuations, variations, legal fees and cost of contract administration;
 - (d) the payment for all purchases; and
 - (e) undertaking such other activities as are connected with all or any of the functions of the Office under this Law.

Acceptance of gifts **Acceptance of Gifts**

- 13 (1) The Office may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift;
- (2) The Office shall not accept gift if the conditions attached by the person or organization making the gift are inconsistent with the functions and objectives of the Office under this Law.

Budget

Annual Estimates and Expenditure

- 14** (1) The Office shall, not later than 30th September in each year, submit to the Committee for endorsement an estimate of the expenditure and income of the Office for the succeeding year.
- (2) The Committee shall cause to be kept proper accounts of the Office in respect of each year and proper records in relation thereto and shall cause the accounts to be audited not later than 4 months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the State.

Annual
Report**Annual Report**

- 15** (1) The Office shall prepare and submit to the Committee not later than 30th June in each year, a report in such form as the Committee may direct on the activities of the Office during the immediately preceding year, and shall include in the report a copy of the audited accounts of the Office for that year and auditors report thereon.

External
borrowings**PART V – EXTERNAL BORROWINGS, ETC****External Borrowing**

- 16** (1) The Office shall annually advise the State Government on the financing gap for the succeeding financial year and the amounts to be borrowed for bridging the gap both internally and externally.

- (2) Any advice issued by the Office under Subsection(1) of this Section shall, among other things, form the basis of the State borrowing programme for the succeeding financial year as may be approved by the State House of Assembly.
3. The Office shall participate in the negotiation and acquisition of such loans and credit referred to in Subsection(1) of this Section.

Execution
of external
loan
agreements

Execution of External Loan Agreements

- 17 (1) Any agreement entered into for the purpose of Subsection(1) of Section 16 of this Law shall, subject to the provisions of this Section, be executed for and on behalf of the State Government by the Commissioner or by other person as the Commissioner may, from time to time and in writing, designate for that purpose.

Internal
borrowing

Internal Borrowing

- 18 (1) Subject to the provisions of Section 3 of this Law, in collaboration with the Office of the Accountant-General of the State, the Office shall –
- (a) determine –
- (i) the floatation of State Government long-term securities to raise appropriate funds in the capital market;
 - (ii) the appointment of underwriters to the issues specified in sub-paragraph (1) of sub-paragraph (II) of this Subsection to ensure their success;

- (iii) the payment of interest maintenance of a register of holders and redemption of securities at maturity;
 - (iv) the creation and management of sinking funds to provide for the redemption of securities at maturity.
 - (v) the repayment or roll-over of existing or maturing issues;
 - (vi) any other form of securities that may be created, issued or floated to achieve the debt management objectives of the State Government.
- (b) review and advise on the maintenance of statutory limits for all categories of loans or debt instruments at levels compatible with economic activities required for sustainable growth and development; and
 - (c) liaise or cooperate with other State Governments – or other relevant institutions within or outside Nigeria for the realization of the objectives of the Office.

PART VI – STATE GOVERNMENT GUARANTEE

Lending to the State Government

- 19** (1) All banks and financial institutions are under a positive obligation to ensure that all prior approvals and conditions prescribed in this Law and other related Laws have been complied with before lending to the State government or any of its agencies.
- (2) Lending by banks and financial institutions in contravention of this law shall be unlawful.

Loan receipts
to form part of
the
consolidated
revenue fund
of the State

Loan Receipts to Form Part of the Consolidated Revenue Fund of the State

- 20** (1) Any monies received in respect of any loan contracted by the State Government shall be –
- (a) paid into and form part of the Consolidated Revenue Fund of the State
 - (b) paid into any other public fund of the State either existing at the time or created for the purpose of the loan; and
 - (c) applied solely for the purpose for which it was obtained and in accordance with the terms and conditions of the agreement under which it was obtained.
- (2) Any monies received in respect of any guaranteed loan on behalf of an MDA shall be –
- (a) paid into and form part of the Consolidated Revenue Fund of the State.
 - (b) paid into any other public fund of the State either existing at the time or created for the purpose of the loan; and
 - (c) applied solely for the purpose for which it was obtained and in accordance with the terms and conditions of the agreement under which it was obtained.
3. Where any amount has become due to be paid out of the monies credited to the Consolidated Revenue Fund of the State or other public funds under Subsection(1) or (2) of this Section, the amount shall be deemed to be

- (3) All loans must comply with the provisions of this Law and or all other relevant Laws.

Terms and Conditions for Loans and Guarantees

- 23 (1) The State House of Assembly may by a resolution approve, from time to time standard terms and conditions for the negotiation and acceptance of loans and issuance of guarantee;
- (2) Where the State House of Assembly has approved the terms and conditions under Subsection(1) of this Section, any agreement entered into by the State Government shall come into operation without further reference to the State House of Assembly; where the terms and conditions are in conformity with the approval;
- (3) Notwithstanding the provisions of Subsection(2) of this Section, the State House of Assembly may by a resolution request that a particular agreement shall be brought before it for further approval; and
4. No agreement in respect of which the approval of the State House of Assembly is required shall come into operation without such approval;


PART VII – SUITS AGAINST THE OFFICE

Limitations of Suit

- 24 (1) Subject to the provisions of this Law, the provisions of the Public Officers protection Act shall apply in relation

to any suit instituted against any officer or employee of the Office;

- (2) Notwithstanding anything contained in any other Law or enactment no suit shall lie or be instituted in any court against any member of the Committee, the Director or any other officer or employee of the Office for any act done in pursuance of execution of this Law or any other law or enactment, or any public duty or authority in respect of any alleged neglect or default in the execution of this Law or such other law or enactment, duty or authority unless -
 - (a) It is commenced within 3 months next after the act, neglect or default complained of; or
 - (b) In the case of a continuation of damage or injury, within 6 months next after the ceasing thereof.
- (3) No Suit shall be commenced against a member of the Committee, the Director, officer or employee of the Office before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Office by the intending plaintiff or his agent.
- (4) The notice referred to in Subsection (3) of this Section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.



Service of documents

Service of Documents

- 25 (1) A notice, Summons or other documents required or authorized to be served upon by the Office under this Law or any other law or enactment may be served by delivering it to the Director or by sending it by registered post and addressed to the Director at the principal office of the Office.

Judgments and enforcement

Enforcement of Court Judgments

- 26 (1) Any sum of money which may by the judgment of any court be awarded against the Office shall, subject to any direction given by court where notice of appeal of the said judgment has been given, be paid from the fund of the Office.

PART VIII

Transitional provisions

Transitional Provision

- 27 (1) As from the commencement of this Law, the powers of any Ministry, Department and Agency over the management of any debt, referred to in Section 3 of this Law shall by virtue of this Law and without assurances, be vested in the office established by this Law and in accordance with the provisions of this Law.
- (2) Accordingly, any proceeding or cause of action pending or existing immediately before the commencement of this Law by or against such MDA over the management of a debt referred to in Section 3 of this Law may be continued or commenced, as the case may be or against the Office as if the office had been a party thereto.

3. The determination of a court of law or tribunal or other authority or person made in any proceeding or cause of action referred to in subsection(2) may be enforced by or against the Office to the same extent that the proceeding, cause of action or determination could have been as if this Law had not been made.

Validation of
appointments

Validation of Appointments

- 28 (1) The appointment of officers and employees made by the Office prior to the commencement of this Law shall be deemed to have been validly made under this Law and the existing rights of such officers shall, by virtue of this Section, be preserved.

PART IX

Regulations

Regulations

- 29 (1) The Office may formulate general policies, regulations, rules and guidelines for the approval of the Committee for the operation of this Law including:
- (a) guidelines for obtaining external loans by the State Government or any of its agencies;
 - (b) guidelines for guarantees with regard to external loans by the State Government or any of its agencies;
 - (c) guidelines for the approval by the Commissioner in respect of lending to public bodies; and
 - (d) guidelines on any matter as the Committee may deem fit in each circumstance

Seal of
Office,
documents
and contracts

Seal of Office

- 30 (1) The fixing of the seal of office shall be authorized by the signatures of the Chairman and the Director or any person generally or specifically authorized by the Committee for that purpose.
- (2) Any contract or instrument which, if made or executed by a person not being a body corporate would not be required to be under seal, may be made or executed on behalf of the Office by the Director or any person generally or specifically authorized by the Committee to act for that purpose.
- (3) Any document purporting to be a document duly executed under seal of the Office shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.
- (4) The validity of any proceedings of the Committee shall not be affected by-
- (a) a vacancy in the membership of the Committee or any committee; or
 - (b) a defect in the appointment of a member of the Committee or any committee or
 - (c) reason that any person not entitled to do so took part in the proceeding of the Committee or committee.

Interpretation

Interpretation

31 In this Law-

“Committee” Means the Debt Management Committee of the Office established under Section 2 of this Law.

“debt” includes both internal and external debts;

“loan” includes both internal and external borrowing;

“Commissioner” means the Commissioner charged with responsibility for Finance and Budget in Bayelsa State.

“Office” means the Debt management Office established under Section 1 of this Law;

“public bodies” include the State and Local Government or their Ministries, agencies and parastatals.

Citation and Commencement

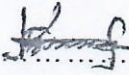
32 This Law may be cited as the Bayelsa State Debt Management Office Law and shall come into force on the day of 2009

SCHEDULE

Supplementary Provisions Relating to the Committee

The Committee shall have power to regulate its internal proceedings.

This printed impression has been carefully compared by me with the Bill which has passed the Bayelsa State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.



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PETER KORU GEORGE
Clerk of the House

Assented the 5th day of November, 2009



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CHIEF TIMIPRE SYLVA
Governor of Bayelsa State