

**OYO STATE OF NIGERIA**  
**DEBT MANAGEMENT AGENCY LAW, 2013**

**A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE**  
**DEBT MANAGEMENT AGENCY FOR RELATED MATTERS**

Date of Commencement (                      )

Enactment                      **BE IT ENACTED** by the House of Assembly of Oyo State of Nigeria as follows:

Short Title                      1.     The Law is cited as the     Debt Management Agency Law, 2013.

Interpretation:                      2.     In this Law:

“Agency” means the Debt Management Agency established under Section 3 of this Law;

“Committee” means the Supervisory Committee of the Agency;

“Debt” includes domestic and external debts;

“House of Assembly” means the House of Assembly of Oyo State;

“Commissioner” means the Commissioner charged with responsibility for Finance;

“Public bodies” includes the State and Local Governments or their agencies and parastatals ;

“Government ” means the Government of Oyo State of Nigeria.

**PART II – ESTABLISHMENT OF THE DEBT MANAGEMENT AGENCY**

Establishment                      **3. (1)**There is established a body to be known as the Debt Management (in this Law referred to as” the Agency Reservation areas and Corporate Institutions to:

(2) The Agency-

(a)           shall be a body corporate with perpetual succession and a common seal;

- (b) may sue and sued in its corporate name; and
- (c) may acquire, hold and dispose of property whether moveable or immovable.

Establishment  
and Composition  
of the supervisory  
Committee.

**4. There is established for the Agency Supervisory Committee**

(In this Law referred to as the Committee) which shall consist of-

- i. the Commissioner for Finance who shall be the chairman;
- ii. the Attorney-General and Commissioner for Justice who shall be the Vice Chairman;
- iii. the Commissioner for Economic Planning and Budgeting
- iv. the Special Adviser Finance;
- v. the Chief Economic Adviser to the Governor;
- vi. the Permanent Secretary, Ministry of Finance;
- vii. the Accountant-General of the State;
- viii. the Director of the Agency who shall be the Secretary to the committee.

- (2) The supplementary provision set out in the schedule to this Law shall have effect with respect to the proceedings of the committee and the other matters.

### **PART III- FUNCTIONS OF THE AGENCY**

Function of the  
Agency.

**5. (1) The Agency shall-**

- (a) Maintain a reliable database of all the loans taken or guaranteed by the State Government or any of their agencies;
- (b) Prepare and submit to State Government a forecast of the loan service obligations for each financial year;
- (c) Prepare and implement plan for the efficient management of the State external and domestic debt obligations at sustainable levels compatible with desired economic activities for growth and development and participate in negotiations at realizing those objectives;

- (d) Verify and service external debts guaranteed by the Federal Government in collaboration with the Federal Ministry of Finance and Federal Debt Management Office;
  - (e) Service external debts taken by the State where such debts are guaranteed by the Federal Government;
  - (f) Set guidelines for managing State Government financial risks and currency exposure with respect to all loans;
  - (g) Advise the Government on the re-structuring and re-financing of debt obligations;
  - (h) Advise the Government on the terms and conditions on the monies, whether in the currency of Nigeria or in any other currency, are to be borrowed;
  - (i) Submit to the State government, for consideration in the annual budget, a forecast of borrowing capacity in local and foreign currencies;
  - (j) Prepare a schedule of any other State Government obligations such as trade debts and other contingent liabilities, both explicit and implicit, and provide advice on policies and procedures for their management;
  - (k) establish and maintain relationships with Federal Ministry of Finance, federal Debt Management office and local financial institutions, creditors and institutional investors in Government debts;
  - (l) collect, collate, disseminate, information, data and forecasts on debt management with the approval of the committee;
  - (m) carry out such other functions which may be delegated to it by the Government or by any Law of the State Assembly; and
  - (n) perform such other functions which in the opinion of the Agency required for the effective implementation of its functions under this Law.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Agency shall-

- (a) administer the debt conversion programme of the State Government (if any);
- (b) perform the functions of the Commissioner with regard to the development fund rules; and
- (c) supervise the operation of the development fund under the relevant Laws both of the State and Federal;

Powers of the  
Agency

**6.** The Agency shall have powers to-

- (a) issue and manage State Government loans publicly issued in Nigeria upon such terms and conditions as may be agreed between the State Government and the Agency;
- (b) issue, from time to time, guidelines for the smooth operation of the debt conversion programme the Government; and
- (c) do such other things which in the opinion of the committee relate to the management of the external debts of the State Government.

Functions of the  
Committee

**7.** The Committee shall

- (a) approve policies, strategies and procedures to be adopted by the Agency;
- (b) review, from time to time, the economic and political impact of domestic and external debt management strategies;
- (c) appoint, as and when necessary, technical sub-committees comprised of persons with requisite technical competence from the private or public sector to advise the Agency on such matters as may be determined from time to time;
- (d) recommend, for the approval of the Governor members of the Debt Conversion Sub-Committee; and

- (e) perform such other functions as may, from time to time be necessary to achieve the objectives of the Agency;

#### **PART IV- STAFF**

Appointment  
of Director

- 8. (1)** There shall be for the Agency, a Director, who shall be appointed by the Governor on recommendation of the Committee.
- (2) The Director shall-
- (a) a person possessing relevant qualifications (in accounting) Economics, Finance or Law;
  - (b) not be below the rank of a Director in the Civil Service of the State;
  - (c) hold office for a period of 5 years in the first instance and may be re-appointed for another term of 5 years and no more;
  - (d) Serve as the Secretary to the Committee;
  - (e) hold office on terms and conditions as may be determined by the committee or as may be contained in his letter of appointment.

Administrative  
Secretary

- 9. (1)** There may be appointed an Administrative Secretary for the Agency who shall be responsible for day to day administration of personnel and report to the Director.

Other  
Employees

- 10. (1)** The Committee shall appoint through the relevant agencies of the government for the Agency 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 Agency.
- (2) The terms and conditions of service (including remuneration allowances, benefits and pensions) of the employees of the Agency determined by Committee after consultation with the State Ministry of Establishment.
- (3) The Committee shall have power to-
- (a) appoint either on transfer or on secondment from any 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 and

- (b) pay to persons so employed such remuneration (including allowances) as the committee may after consultation with the State Ministry of Finance determine.

Power to name  
Staff regulations

**11. (1)** The Committee may make staff regulations relating generally to the conditions of service of the employees of the Agency and without prejudice to the generality of the foregoing, such regulations may provide for-

- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Agency
- (b) appeals by such employees against dismissal or other disciplinary measures,

(2) 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 Agency.

(3) Staff regulations made under subsection (1) of this section shall not have effect until approved by the commissioner and when so approved they need not be published in the State gazettee the committee shall cause them to be brought to the notice of the affected persons in manner as it may, from time to time, determine.

**12. (1)** Service in the Agency shall be approved service for the purposes of the pensions.

(2) The officers and other persons employed in the Agency 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.

(3) Nothing in subsections (1) and (2) of this section shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office .

(4) For the purposes of the application of the provisions of the Pensions Law, any power exercisable by the Commissioner or other authority of the Government of the State other than the power to make regulations under Section 32 is hereby vested in and shall be exercisable by the Committee and not by any other person or authority.

- 13.** There shall be for the Agency a management team which shall comprise of the Director and the Heads of Department of the Agency shall be responsible for the implementation of the policies of the Committee and day to day administration of the Agency.

#### **PART V – FINANCIAL PROVISIONS**

- 14.** (1) There is established for the Agency a Centralize Running Grant Account from which shall be defrayed all expenditure incurred by the Agency.
- (2) There shall be paid and credited to the Account –
- (a) any allocation to the Agency from the Consolidated Revenue State;
- (b) such moneys as may, from time to time, be granted or lent to the Agency by the State Government or a Local Government;
- (c) all moneys raised for the purposes of Agency by the way of gifts loan, grants-in-aid, testamentary disposition or otherwise; and
- (d) all other assets that may, from time to time, accrue to the Agency.

(3) The Account 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 of the Account of the Agency are to be held and regulating the making of payments into and out of the Account; and
- (b) requiring the keeping of proper accounts and records for the purpose of the fund in such form as may be specified in the rules.

**15.** The Agency shall apply monies in the Account to-

- (a) meet the cost of administration of the Agency;
- (b) the payment of salaries, fees, remunerations, allowances, pensions and gratuities payable to the members of the Committee and the employees of the Agency;
- (c) the payment for consultants, contractors, including mobilization, fluctuations, variations, legal fee and cost of contract administration;
- (d) the payment for all purchases; and
- (e) undertake such other activities as are connected with all or any of the functions of the Agency under this Law.

- 16.** (1) The Agency 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 Agency shall not accept any gift if the conditions attached by the person or organization making the gift are inconsistent with the functions of the Agency under this Law.



17. (1) The Committee shall, not later than 30<sup>th</sup> September in each year submit to the Commissioner an estimate of the expenditure and income of the Agency during the next succeeding year.
- (2) The Committee shall cause to be kept proper accounts of the Agency in respect of each year and proper records in relations thereto and shall cause the Agency accounts to be audited not later than 6 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.
18. The Committee shall prepare and submit to the Commissioner not later than 30<sup>th</sup> June in each year report in such form as the Commissioner may direct on the activities of the Agency during immediately preceding year, and shall include in the report a copy of the audited accounts of the Agency that year and the auditor's report thereon.

#### **PART VI- EXTERNAL BORROWING, ETC**

19. (1) The Agency 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 given by the Agency under subsection (1) of this section shall, among other things, form the basis of the state borrowing programme for the succeeding financial year which shall be approved by the House of assembly
- (3) The Agency shall participate in the negotiation and acquisition of such loans and credit referred to in Subsection (10) of this Section.
20. An Agreement entered into for the purpose of subsection (1) of section 19 of this Law shall, subject to the provisions of this section, be executed for and on behalf of the Government by the

Commissioner or by such other person as the Commissioner may, from time to time and in writing, designate for that purpose.

**21.** (1) No external loan shall be approved or obtained by the Commissioner unless its terms and conditions shall have been laid before the House of Assembly and approved by its resolution.

(2) The Government or any of its agencies shall not obtain any external loan except with a guarantee issued by the Ministry of Finance.

**PART VII- FEDERAL GOVERNMENT GUARRANTEE, ETC.**

**22.** (1) The federal Government may, subject to the provisions of this Section, guarantee external loans.

(2) A guarantee agreement for external loans shall be executed on behalf of the State Government by the Commissioner or any other person designated by him in writing.

(3) Where any money is due to be paid by the State Government in satisfaction of any obligation arising from a borrowing or a guarantee by the Commissioner, that money shall be deemed to be a charge on the Federal Allocation Account of the State or the Consolidated Revenue Fund of the State, as the case may be.

**23.** (1) Subject to the provisions of Section 6 of this Law and in collaboration with the State Accountant-General and Ministry of Finance, the Agency shall-

(a) determine-

(i) the amounts and timings for the issuance of State Government short –term and medium-term securities in the Nigerian money market;

(ii) the repayment or roll-over of existing or maturing issues;

- (iii) the appointment of underwriters to the issues specified in subparagraph (i) of paragraph (a) of this subsection to ensure their success;
  - (iv) floatation of State Government long-term securities to raise appropriate funds in the capital market;
  - (v) the repayment of interest, maintenance of a register of holders and redemption of securities at maturity;
  - (vi) the creation and management of sinking funds to provide for the redemption of securities at maturity;
- (b) in collaboration with the Accountant-General of the State, determine any other form of securities that may be created, issued or floated to achieve the domestic debt management objectives of the Government;
  - (c) 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 in collaboration with the Central Bank of Nigeria and the Accountant-general of the State; 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 Agency.

(2) The Agency for the purpose of achieving the objectives specified in this Section may maintain accounts with the Central Bank of Nigeria as may be deemed necessary.

**24.** All banks and financial institutions requiring to lend money to the State and Local Governments or any of their agencies shall obtain the prior approval of the Commissioner.

- 25.** (1) Approval for grants or loans to another state or any international body or any of its agencies may be granted in accordance with the procedure specified in this Section.
- (2) Applications for grants or loans to another state may be submitted by the Governor to the State House of Assembly and may be approved subject to such terms and conditions as may be prescribed by a resolution of the House of Assembly.
- (3) An application specified in subsection (2) of this Section shall indicate the-
- (a) policy objectives underlining the request or proposal;
  - (b) Terms and conditions of the grant or loan;
  - (c) Benefits which the State stands to derive from the grant or loan;
- and
- (d) State of the relations existing between the state or international body and Oyo State at the time of the request or proposal.
- (4) The House of Assembly shall, by resolution, decide whether or not the grant or loan should be made.
- 26.** (1) Any monies received in respect of any loan contracted by the 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 condition of the agreement under which it was obtained.
- (2) Any monies received in respect of any guaranteed loan on behalf of the 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
- (d) applied solely for the purpose for which it was obtained and in accordance with the terms and condition of the agreement under which it was obtained.

(3) Where any amount has been 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 a charged on the Consolidated Revenue Fund of the State as the case may be, or such other public funds into which the monies have been paid.

**27.** (1) The House of assembly may by a resolution approve, from time to time, standard terms and conditions for the negotiation and acceptance of external loans and issuance of guarantees.

(2) Where the House of Assembly has approved the terms and conditions under Section (1) of this Section, any agreement operation without further reference to the 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 House of Assembly may by a resolution request that a particular agreement shall be brought before it for further approval.

(4) No agreement in respect of which the approval of the House of Assembly is required shall come into operation without such approval.

(5) An approval shall be deemed granted if after 30 days the approval has not been formally communicated to the Commissioner.

## **PART VIII- MISCELLANEOUS**

**28.** (1) Subject to the provisions of this Law, provisions of the public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Agency.

(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, Director or any officer or employee of the Agency for any act done in pursuance or execution of this Law or any other law or enactment, or of 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 Agency before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Agency by the intending Claimant 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 Claimant and the relief which he claims.

**29.** A notice, summons or other documents required or authorized to be served upon the Agency 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 addressed to the Director at the principal address of the Agency.

- 30.** (1) In any action or suit against the Agency, no execution or attachment of process in the nature thereof shall be issued against the Agency.
- (2) Any sum of money which may, by the judgment of any court be awarded against the Agency 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 Agency.
- 31.** (1) As from commencement of this Law, the powers of any Ministry or Extra-Ministerial Department over the management of any debt, referred to in Section 5 of this Law shall by virtue of this Law and without further assurance, be vested in the Agency 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 or against any such Ministry or Extra – Ministerial Department over the management of any debt in respect of any right, interest, obligation or liability in relation to the management of a debt referred to in Section 5 of this Law may be continued or commenced, as the case may be, by or against the Agency as if the Agency had been a party thereto.
- (3) The determination of a court of law, tribunal or other authority or person made in any proceeding or cause of action referred to in subsection (2) hereof may be enforced by or against the Agency to the same extent that the commenced or enforced by or against that Ministry or Extra-Ministerial Department as if this Law had not been made.
- 32.** (1) The appointment of officers and employees made by Agency 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.

- 33.** (1) The Committee may, with the approval of the Commissioner, make regulations for the operation of this Law, including the issuance of guidelines for-
- (a) obtaining external loans by the State Government or any of its agencies;
  - (b) guarantees with regard to external loans by the Government or any of its agencies;
  - (c) the approval by the Commissioner in respect of lending to public bodies; and
  - (d) for any other matter as the Committee may deem fit in each circumstance
- 34.** (1) Section 6 of the Bonds. Notes And other Securities Issuance Law, 2012 are hereby repealed.
- (2) In other provisions of the Law mentioned in sub-section (1) of this Section where the word "Office" is used in relation to the repealed section, such shall be substituted with the word "Agency"

**SUPPLEMENTARY PROVISIONS RELATING TO THE COMMITTEE, ETC.**  
**Proceedings of the Committee**

- 1- (1) Subject to this Law and Section 27 of the Interpretation Law, the Committee may take standing orders regulating its proceedings or those of any of its committees.
- (2) The quorum of the committee shall be the Chairman, the Vice-Chairman or the person presiding at the meeting and 3 other members of the Committee, and the quorum of any sub-committee of committee shall be determined by the Committee.
2. (1) The Committee shall meet not less than 4 times in each year and subject thereto; the Committee shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by notice given to him by not less than 4 other members, he shall summon a meeting of the Committee to be held within 28 days from the date on which the notice is given.



(2) At any meeting of the Committee, the Chairman shall preside but if he is absent, the Vice-Chairman shall preside at the meeting and if he is absent, the members present at the meeting appoint one of them to preside at that meeting.

(3) Where the Committee desires to obtain the advice of any person on a particular matter, the Committee may co-opt him to the Committee for such period as it deems fit but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Committee and shall not count towards a quorum.

### **Sub-Committees**

3. (1) The Committee may appoint one or more sub-committees to carry out, on behalf of the Committee, such functions as the Committee may determine.

(2) A sub-committee appointed under this paragraph shall consist of such number of persons as may be determined by the Committee and a person shall, hold office on the sub-committee in accordance with the terms of his appointment.

(3) A decision of Sub-committee shall be of no effect until it is confirmed by the committee.

### **Miscellaneous**

4. (1) The fixing of the seal of the Office shall be authenticated by the signatures of the Chairman or any person generally or specifically authorized by committee to act for that purpose and that of the Director.

(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 the 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 proceeding of the committee shall not be adversely affected by-

- (a) a vacancy in the membership of the committee; or
- (b) a defect in the appointment of a member of the Committee; or
- (c) reason that a person not entitled to do so took part in the proceedings of the Committee.

.....  
**Speaker,**  
**House of Assembly**

.....  
**Clerk,**  
**House of Assembly**

**HAG & CJ,**  
**Via**  
**SG & PS**

Refer to your minute at page 1 please. Page 1 is a memo from the office of the Accountant-General requesting us to vet the bill at pp. 2 – 26 on the establishment of Debt Management Department. The said bill had been vetted and is submitted for approval please.

2. We propose an Agency rather than a department to make the body more distractive as an autonomous body rather than a department of the Ministry of Finance which is the supervisory body. The Agency has a Supervisory Committee headed by the Attorney-General and Commissioner for Economic Planning, among others are members.

3. Functions of the Agency in the main is to identify financing gap in the government financing and propose by budgeting, debt facilities to fill the gap. It also administers the loan from conception to repayment. It contract, elaborate provisions to make the Agency functional and efficient.

4. It was however discovered that the Debt Management office was created in another Law which is Bonds, Notes and other securities issuance Law, 2012. That law also empowered the office created to regulate debt facilities of the Government but in a broader perspective. In order to avoid conflicts and overlapping, I inserted provisions in this bill to repeal section 6 of that Law which created the Debt Management Office and center the duties of that office on the Agency created in this bill. Thus, the debt management programme of Oyo State is brought under one body.

5. A neat copy of the bill is at pages 27-36.

**T.M. Abdulganiyu Esq.**  
Director Legal Drafting & Parliamentary  
Counseling,  
for: Honourable Attorney – General and  
Commissioner for Justice

