

A BILL
FOR

Long title. A Law to provide for the establishment of Akwa Ibom State Debt Management Office and related matters

Commencement. ()

Enactment. BE IT ENACTED by the Akwa Ibom State House of Assembly as follows:

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 "the 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 property whether, moveable or immovable.

(2) The Office shall be under the supervision of State Ministry of Finance.

Functions of Office.

2. (1) The Office shall –

- (a) maintain a reliable database of all loans taken or guaranteed by the State, its agencies, Local Government Councils and their agencies;
- (b) prepare and submit to the Governor a forecast of loan service obligations for each financial year;
- (c) prepare a schedule of any other State Government obligations such as contractor and supplier debts,

pension liabilities, loans from the Federal Government and other contingent liabilities, both explicit and implicit and provide advice on policies and procedures for their management;

- (d) prepare and implement a strategy for the efficient management of the State's external and domestic debt obligations;
- (e) verify and reconcile domestic debt service guaranteed or directly taken by the State Government with the Federal Debt Management Office;
- (f) verify and reconcile external debts serviced, guaranteed or directly taken by the State Government with the Accountant General of the State;
- (g) on the basis of agreement, service domestic debts taken by Local Governments and any of their agencies, where such debts are guaranteed by the State Government;
- (h) set guidelines for managing State Government Financial risks and currency exposure with respect to loans;
- (i) advise the State Government on the re-structuring and re-financing of all debt obligations;
- (j) advice the State Government on the terms and conditions upon which monies, whether in

Nigerian currency or foreign currency, are to be borrowed;

- (k) in collaboration with the Ministry of Economic Development and State Budget Office, use historical data to forecast Government financing needs and establish a financing gap for each year;
- (l) submit to the State Government, for consideration in the annual budget, the State's financing gap and forecast of borrowing capacity in local and foreign currencies for approval by Executive Council and State House of Assembly in the Appropriation Bill;
- (m) establish and maintain relationship with international and local financial institutions and institutional investors, donor agencies and the Federal Debt Management Office;
- (n) assess and verify compliance to existing laws and borrowing guidelines of every proposal for consent to obtain a loan submitted by any State agency or Local Government Council and recommend same to the Governor for approval;
- (o) monitor all projects funded by loans and report to the State Executive Council on the performance of all loans contracted by the State;
- (p) perform such other functions which in the opinion of the State Governor are required for the effective

implementation of its functions under this Law;
and,

- (q) carry out such other functions as may be assigned to it by the Governor or by other laws.

Powers of Office.

3. The Office shall have power to –

- (a) issue to the public, from time to time as the need arises and within existing guidelines that will ensure sustainability, registered bonds by the Government of Akwa Ibom State in such aggregate sum as may be approved by the State Executive Council to the Office.
- (b) issue from time to time, guidelines for obtaining credit facilities from the State, its agencies and Local Government Councils that will ensure the prudent management and smooth operation of the public debt or securities issuance programme of the State Government;
- (c) participate in the Federal Debt Management Office's programmes that are aimed at ensuring debt sustainability for the State;
- (d) issue a consent to borrow, subject to approval by the State Executive Council and the full compliance with existing laws and borrowing guidelines of approval for the State ministries, departments and agencies or Local Government Councils that may wish to borrow;

Establishment,
composition and
power of the Debt
Management
Council.

- (e) obtain information relating to borrowings and debts in the State and Local Government Councils;
- (f) undertake such other activities that relate to the management of the external and domestic debts of the State and its Local Government Councils.

4. (1) There is established for the Office a Debt Management Council (herein referred to as "the Council") which shall be the policy formulation and implementation organ of the Office.

(2) The Debt Management Council shall comprise –

- (a) the Commissioner for Finance as the Chairman;
- (b) the Attorney-General and Commissioner for Justice,
- (c) the Commissioner for Economic Development;
- (d) the Accountant-General;
- (e) Executive Secretary Akwa Ibom State, Bureau of Public Procurement; and
- (f) Head of Debt Management Office as Secretary.

(3) The Debt Management Council shall have power to –

- (a) determine the organizational structure of the Office;
- (b) determine the general policies and guidelines relating to the functions and powers of the Office ;
- (c) carry into effect, the functions and powers of the Office;
- (d) carry out public awareness and education on debt profile of the State and its debt management strategies;

- (e) review from time to time the impact of borrowing and debt management strategies on the socio-macroeconomics of the State.
- (f) do such other things which in the opinion of the Council are necessary or incidental to the efficient performance of the functions of the Office .

Schedule.

(4) The supplementary provisions set out in the Schedule to this Law shall have effect with respect to the proceedings of the Council and the other matters therein.

Permanent Secretary
or Head of Office.

5 (1) There shall be for the Office, a Permanent Secretary or Head of Office who shall be appointed by the Governor.

(2) He shall be –

- (a) a person who possess a degree in Economics or related field with sound knowledge of public debt management and must have cognate experience of at least five years in public service and debt management;
- (b) responsible for policy direction and day-to-day administration of the Office.

Fund of Office.

6. (1) There shall be established for the Office a fund from which shall be defrayed all expenditure incurred by the Office.

(2) There shall be paid and credited to the fund–

- (a) all budgetary allocations from the State Government;
- (b) such monies as may from time to time be granted to the Office by the Federal Government or its

Debt Management Office, the State Government or its agencies or Local Government Councils or their agencies;

- (c) all monies raise by the Office by way of gift, fees for services rendered, loans, grants and aid, testamentary disposition or otherwise; and,
- (d) all other assets that may from time to time accrue to the Office;
- (e) charges for its services subject to, and within limits specified by the Governor or other laws.

Borrowing

7. (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 be responsible for negotiation and acquisition of such loans, grants and credit referred to in subsection (1) of this section on the approval of the State Executive Council.

(4) All borrowing proposals of the State Government and Local Government Councils in a fiscal year may, subject to guidelines issued from time to time by the Office, be submitted not later than 30th September of the previous year to the Office for incorporation into the borrowing programme for the coming year.

(5) Any loan or credit facility obtained in contravention of this Law and guideline issued therefrom shall be void.

(6) An agreement entered into for the purpose of subsection (1) of this section shall, subject to the provision of this section, be executed for and on behalf of the State Government by the Commissioner for Finance or by such other person as the Commissioner for Finance may from time to time and in writing, designate for that purpose.

(7) A loan shall not be approved or obtained by the State or Local Government Councils unless its terms and conditions are in accordance with the existing borrowing guidelines issued by the Office pursuant to this Law.

(8) The State, Local Government Councils or any of their agencies shall not obtain any external loan except after proper documentation with the Office and with a guarantee issued by the Commissioner for Finance.

State Government
guarantee, etc.

8. (1) The State Government may, subject to the provisions of this section and the guidelines issued pursuant to this Law, guarantee internal loans taken by its agencies or Local Government Councils;

(2) A guarantee agreement for internal loans shall be executed on behalf of the State Government by the Commissioner for Finance or any other person designated by him in writing with the approval of the Governor;

(3) The Commissioner for Finance shall not guarantee an external loan unless the terms and conditions of the loan are in line with this Law and existing borrowing guidelines and have been laid before the State House of Assembly and approved by its resolution.

(4) 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 for Finance that money shall be deemed to be a charge on the Consolidated Revenue Fund of the State.

Internal borrowing. 9. (1) Subject to the provisions of section 2 of this Law, 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, registrars and other relevant parties to the issue specified in sub-paragraph (i) of paragraph (a) of this subsection to ensure their success.
 - (iii) the payment of interest, maintenance of 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 in collaboration with other relevant agencies and the Accountant-General of the State,
- (b) determine any other form of securities that may be created, issued or floated to achieve the domestic

debt management objectives of the State Government;

- (c) review and advice on the maintenance of statutory limit for all categories of loans or debt instruments at levels compatible with economic activities required for sustainable growth and development in collaboration with the office of Accountant General of the State.

Loan receipts to form part of the Consolidated Revenue Fund of the State.

10. Any money 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; or
- (b) paid into any other public fund of the State either existing at the time or created for the purpose of loans; 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.

Transitional provisions, etc.

11. (1) As from commencement of this Law, the powers of any ministry, department or agency over the management of any debt referred to in section 2 shall be by virtue of this Law and without further assurance be vested in the Office.

(2) Accordingly, any proceeding or cause of action pending or existing immediately before the commencement of this Law by 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 2 of this Law, may be continued or commenced, as the case may be, by or against the Office, as if the Office 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), may be enforced by or against the Office to the same extent that the proceeding, cause of action or determination could have been continued, commenced or enforced by or against that ministry or extra-ministerial department as if this Law had not been made.

Miscellaneous.

12. (1) Any contract or instruments which, if made or executed by a person not being a body corporate, would not require to be under seal, may be made or executed on behalf of the Office by the Permanent Secretary or any person generally or specifically authorized by the Office to act for that purpose.

(2) 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 or presume to be so executed.

Interpretation.

13. In this Law, unless the context otherwise permits, –

“Office” means the Debt Management Office established under section 1;

“debt” includes internal and external debts;

“Governor” means the Governor of Akwa Ibom State;

“loan” includes internal and external borrowing;

“power” means function and functions include power;
“public bodies” includes Federal, State and Local Governments,
their agencies, departments and parastatals;
“State” means Akwa Ibom State, unless the context requires
otherwise;

Short title and
commencement.

14. This Law may be cited as the Akwa Ibom State Debt
Management Office Law, and shall come into operation on the
day of, 2019.

SCHEDULE

Section 4(4).

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL, ETC.

Proceedings of the Council

Standing Orders.

1. (1) Subject to this Law, the Council may make standing
orders regulating its proceedings or those of any of its committees.

(2) The quorum of the Council shall be the Chairman or the
person presiding at the meeting and three other members of the
Council, and the quorum of any committee of the Council shall be
determined by the Council.

Meetings.

2. (1) The Council shall meet not less than four times in each
year and subject thereto, the Council shall meet whenever it is
summoned by the Chairman or if the Chairman is requested to do so
by notice signed by not less than four members, he shall summon a

meeting of the Council within twenty-eight days from the date the notice was given.

(2) At any meeting of the Council the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their numbers to preside at that meeting.

(3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him into the Council for such period as it deems fit but such person shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

Committees.

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

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

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

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 authorised by the Council to act for that purpose and that Head of Office.

(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

Head of Office or any person generally or specifically authorised by the Council 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 Council or of a committee shall not be adversely affected by –

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

This printed impression has been compared by me with the Bill which has been passed by the Akwa Ibom State House of Assembly and is found to be true and correctly printed copy of the Bill.


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MRS MANDU UMOREN
Clerk of the House

I assent.


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MR. UDOM EMMANUEL
Governor

Dated this.....*30th*.....*day of*.....*December*.....*2019*