

Students Loan Trust Fund Act, 2011

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**THE EIGHT HUNDRED AND TWENTIETH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF
GHANA
ENTITLED
STUDENTS LOAN TRUST FUND ACT, 2011**

AN ACT to establish a Fund to provide financial resources for the benefit of students of tertiary institutions, to promote and facilitate the national ideals enshrined in articles 25 and 38 of the 1992 Constitution and to provide for related matters.

DATE OF ASSENT: 14th June, 2011.

PASSED by Parliament and assented to by the President:

Establishment of the Fund

Establishment of the Trust Fund

1. There is established by this Act the Students Loan Trust Fund.

Object and functions of the Fund

2. (1) The object of the Fund is to provide financial resources and the sound management of the Fund for the benefit of students of accredited tertiary

institutions pursuing accredited tertiary programmes and to promote and facilitate the national ideals enshrined in articles 25 and 38 of the 1992 Constitution.

(2) To achieve the object, the moneys from the Fund shall be applied to the relevant activities that the Board may determine which include

(a) the provision of financial support to tertiary level students of accredited tertiary institutions pursuing accredited tertiary programmes, and

(b) the provision of money to support other activities related to the promotion of programmes and relevant courses in tertiary institutions as determined by the Board in consultation with the Minister.

Sources of money for the Fund

3. The sources of money for the Fund are

(a) money paid into the Fund representing up to ten per cent of the inflows into the Ghana Education Trust Fund,

(b) voluntary contributions which are tax deductible,

(c) mobilisation of resources from local and international partners interested in the advancement of tertiary education,

(d) contributions from the corporate sector that shall be tax deductible equivalent to 0.3% of the company's annual profit before tax,

(e) loans from the Social Security and National Insurance Trust upon terms and conditions as shall be agreed upon,

(f) donations, gifts, bequest and other moneys from any Ghanaian or individual foreigner, local or foreign entity,

(g) money from tax exempt bonds issued with the approval of the Minister of Finance,

(h) money that the Minister may determine, with the approval of Parliament,

(i) loan repayments, fees and other money earned by the Fund in the performance of its functions,

(j) money that accrues to the Fund from investments made by the Board,

(k) one percent of moneys taken from the communications service tax revenue, and

(l) any other sources of funding that the Board in consultation with the Minister of Finance may determine.

Bank Account for the Fund

5. Moneys of the Fund shall vest in the Board and shall be paid into bank accounts that shall be opened by the Board with the approval of the Controller and Accountant-General.

Governing body of the Fund

5. (1) The governing body of the Fund is a Board of Trustees which consists of

(a) a chairperson,

(b) one representative from the Ministry responsible for Education, not below the rank of a Director,

(c) one representative from the Social Security and National Insurance Trust,

(d) one representative of recognised students' associations of accredited tertiary institutions nominated on rotational basis for one term of two years only,

(e) one representative of the Ghana Education Trust Fund,

(f) one representative of the National Council for Tertiary Education,

(g) one representative of the Ghana Employers Association,

(h) one professional with specialist experience in investment and financial management nominated by the Minister,

(i) three representatives of the Government at least one of whom is a woman,

(j) one representative from the Attorney General's Office not below the level of Principal State Attorney, and

(k) the Chief Executive Officer of the Fund.

(2) The chairperson and members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

Functions of the Board

6. (1) The Board is responsible for the management of the Fund and shall

(a) arrange for the appointment of a team of professionals for the efficient management of the affairs of the Fund;

(b) monitor and evaluate the operations and performance of the Fund;

(c) ensure accountability of the Fund by defining appropriate procedures for its management;

(d) determine procedures for its management;

(e) disburse money from the Fund;

(f) invest some of the money of the Fund in safe securities that are financially beneficial to the Fund;

(g) establish systems to ensure the effective and efficient recovery of loans;

(h) put in place structures and guidelines that will ensure fairness in the disbursement and application of the Fund;

(i) formulate policies to determine, among other things;

(i) the terms under which money from the Fund will be allocated to eligible students,

(ii) the maximum amount of money that may be granted by the Fund to an applicant, and

(iii) the sectors of the economy in which the money in the Fund may be invested; and

(j) perform any other functions that are incidental to the achievement of the object of the Fund.

(2) The Board may

(a) enter into contracts,

(b) acquire, purchase and hold movable and immovable property, and

(c) convey, assign and transfer movable and immovable property or an interest in property vested in it on behalf of the Fund.

Tenure of office of members of the Board

7. (1) A member of the Board shall hold office for a period not exceeding four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Chief Executive Officer of the Fund.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board, other than the Chief Executive Officer, who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may by letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall, determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3) or (4) or section 9 (2), or

- (b) as a result of a declaration under subsection (6), or
- (c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

Meetings of the Board

8. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is a simple majority of the Members of the Board or two thirds of members of the Board in respect of an important matter or question that has financial implications.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of vacancy in the membership or defect in the appointment of a Member.

Disclosure of interest

9. (1) A member of the Board who has an interest in a matter for consideration by the Board

- (a) shall disclose the nature of that interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Board in respect of that matter.

(2) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and

(a) fails to disclose that interest, or

(b) participates in the deliberations of the Board in respect of the matter.

Establishment of committees

10. (1) The Board may establish committees which consist of members of the Board or non-members or both to perform a function.

(2) Without limiting subsection (1), the Board shall have a Complaints Committee.

(3) A committee of the Board shall be chaired by a member of the Board.

(4) Section 9 applies to members of committees of the Board.

Allowances

11. Members of the Board and members of a committee of the Board shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

Ministerial directives

12. (1) The Minister may give general directives in writing to the Board on matters of policy.

(2) Despite subsection (1), where the Board has any justifiable or reasonable observation or reservation on the policy directive, the Board may promptly make recommendations on the directive to the Minister.

Administrative provisions

Appointment of Chief Executive Officer

13. (1) The President shall in accordance with article 195 of the Constitution appoint a Chief Executive Officer of the Fund.

(2) The Chief Executive Officer shall hold office on the terms and conditions specified in the letter of appointment.

(3) The Chief Executive Officer is the secretary of the Board.

Functions of the Chief Executive Officer

14. (1) The Chief Executive Officer is responsible for the day to day administration of the affairs of the Fund and is answerable to the Board in the performance of functions under this Act.

(2) The Chief Executive Officer shall perform any other functions determined by the Board. (3) The Chief Executive Officer may delegate a function to an officer appointed for the management of the Fund but shall not be relieved from the ultimate responsibility for the performance of the delegated function.

Appointment of other staff

15. (1) The President shall in accordance with article 195 of the Constitution appoint other staff that are necessary for the proper and effective performance of the functions of the Fund.

(2) Other public officers may be transferred or seconded to the Fund.

(3) The Board may engage the services of advisers and consultants on the recommendations of the Chief Executive Officer.

Internal auditor

16. (1) The President shall in accordance with article 195 of the Constitution, appoint an internal Auditor of the Fund.

(2) The internal auditor shall, at the end of every three months, submit a report on the audit of the books and records of account of the fund in respect of that period to the Board.

(3) This section so far as it relates to internal audit shall be read and construed in accordance with the Internal Audit Agency Act, 2003 (Act 658) and where there is a conflict that Act shall prevail.

Financial provision

Disbursement from the Fund

17. The money of the Fund shall be disbursed to eligible students by the Board in the proportions determined by the Board.

Interest rate on loans

18. The Board has the power to decide on the interest to be charged on loans granted to borrowers.

Provision of guarantee by borrower

19. A borrower shall provide at least one guarantor acceptable to the Board prior to the disbursement of the loan by the Board.

Fees and charges

20. The Board may impose fees and charges for the processing of applications of borrowers.

Application for funding

21. (1) An application for funding from the Fund shall be in the form prescribed by the Board.

(2) The Board may set deadlines and conditions for the submission of applications.

(3) On the receipt of an application, the Board may conduct investigations on the applicant and may request the applicant to submit documents it considers necessary for the determination of the application.

(4) The Board shall

(a) grant the application if

(i) moneys are available in the Fund,

(ii) it is satisfied that the applicant has fulfilled the requisite conditions, and

(iii) the applicant has fulfilled any other conditions required for the grant of an application prescribed under this Act, or

(b) refuse to grant the request where it determines that the applicant is ineligible.

(5) Where the Board grants an application, it shall inform the applicant of the moneys allocated to the applicant within thirty days.

(6) Where an applicant is granted a loan by the Board, the applicant shall bear the full risk of the loan.

(7) An applicant dissatisfied with the decision of the Board in respect of an application may petition the Complaints Committee of the Fund for a review of the decision.

Loan protection

22. (1) A borrower of the Fund shall subscribe to a Students' Loan Protection Scheme that shall indemnify the borrower against payment of outstanding debt to the Fund as a result of death or permanent disability.

(2) The Loan Protection Scheme shall cover the duration of the loan.

(3) A borrower who repays the loan in full shall be issued with a certificate of payment within fourteen days after payment by the Board and the certificate shall be conclusive evidence of full payment of the loan. Civil liabilities

23. (1) A borrower who withdraws from an accredited tertiary programme or is dismissed from an institution, is liable to pay the loan granted for the studies in that institution.

(2) Where the borrower fails to pay the loan granted by the Board, the guarantor of the loan is liable to pay the loan and the Board shall issue a certificate of payment to the guarantor on full payment.

Deductions from salary of employee for repayment

24. (1) An employer shall enquire from an employee who has had tertiary education in the country at the time of the commencement of the employment,

whether the employee is a borrower from the Fund and shall notify the Board in writing within thirty days after receipt of the information.

(2) If the employee is a borrower of the Fund the employee shall provide the employer with proof of full re-payment of the loan.

(3) Where an employee has not fully repaid the loan, the employer shall make monthly deductions from the salary of the employee in accordance with the agreed monthly repayments between the Fund and the borrower and shall pay the deduction into the Fund within fifteen days after the deduction.

(4) Where an employer makes monthly deductions from the salary of an employee but fails to pay the deductions into the Fund within the fifteen day period, the employer is liable to pay interest on the amount deducted at the prevailing interest rate plus five percent as penalty.

Power of Board to demand information

25. (1) The Board may in writing require an employer, a person or an

institution to provide the

(a) name,

(b) residential and postal addresses,

(c) work place and work place address,

(d) telephone numbers,

(e) e-mail address,

(f) national identification number,

(g) national health insurance number,

(h) social security and national insurance trust number, or, any other recognised national pension scheme number, and

(i) any other information

on a borrower or guarantor.

(2) The request for information shall apply to a borrower who was educated at a tertiary institution in the country.

(3) The Board may demand that a government agency provide relevant information on a person to the management of the Fund and that institution or agency shall comply.

(4) The employer, person or institution shall provide information within thirty days after the receipt of the demand notice.

Procedure for recovery of loan

26. (1) Where a borrower defaults in repaying the loan for six cumulative months, the Board shall send notice of demand to the borrower to make payment in a manner provided under subsection (2) ..

(2) A copy of the demand notice shall be sent or delivered to the borrower or the guarantor at their last known place of abode or address and published twice in a state owned daily newspaper.

(3) If the borrower or the guarantor fails to repay or make satisfactory arrangement to repay the loan in accordance with the demand notice, the Board shall publish the name of the borrower or the guarantor in a state owned daily newspaper.

(4) The publication shall state the amount owed, and demand that the amount owed should be paid within one month after the publication and that failure to do so is an admission of the debt and it shall be deemed that judgment on the amount in addition to costs of five percent of the debt has been entered by a Circuit Court against the borrower and guarantor.

(5) The Board shall without any further notice to the borrower or guarantor proceed to execute or enforce the judgement for the recovery of the loan or any balance then outstanding in an appropriate manner.

(6) Despite any law to the contrary, the Board in execution of a judgement against a borrower or guarantor, may attach the contributions of the borrower or guarantor made to any scheme under the National Pensions Act, 2008 (Act 766) or any pension scheme operated and managed by any institution in the country.

(7) The Board may request any scheme established under the National Pensions Act, 2008 (Act 766) or any pension scheme operated and managed by an institution in the country to provide information on any contributions made by a borrower or guarantor to that scheme and the contributions shall

be attached for the repayment of a loan under this Act.

Obligation on borrower to provide information

27. (1) It is the duty of the borrower to notify the Fund in writing of
(a) a change of the borrower's residential, postal and business addresses and other contact information,

(b) the name and business address of the borrower's employer, or guarantor, and

(c) the borrower's salary and particulars that the Board may reasonably request at any time until the loan is fully repaid.

(2) Except where the borrower is self-employed, the borrower shall also notify the employer in writing of any obligation in respect of the loan.

Credit reference

28. Despite the Credit Reporting Act, 2007 (Act 726) the Board of Trustees of the Fund shall provide information on defaulters to a Credit Reference Bureau.

Senior loan

29. Loans contracted from the Fund are deemed to be senior loans and shall have priority over other loans contracted by the borrower.

Borrower on scholarship

30. Despite any other provision in any enactment to the contrary, a person is not eligible to apply for a loan under this Act where

(a) on admission into an accredited tertiary institution or during the course of studies in the institution, the borrower obtains a scholarship from the Government or from a public or private funded source; and

(b) the amount of the scholarship is equal to or exceeds the maximum loan payable under the loan scheme of the Fund at the time of the grant of the scholarship.

Use of loan

31. A borrower shall apply the loan granted from the fund to defray personal expenses including fees, the cost of boarding, lodging, books, equipment and for other purposes that may be necessary for the borrower's course of studies

. Disclosure of information on scholarship

32. (1) A person or entity shall inform the Fund of any scholarship made to a student of a tertiary educational institution in the country.

(2) The information shall be provided. by the person or entity within one month after the award of the scholarship to the student.

(3) Subsection (1) applies to a private and public entity.

(4) The information shall include the name, institution of learning of the student and amount of the scholarship.

(5) The Board may issue a demand notice to a private or public entity to provide information on a scholarship, award, bursary or grant made to a student in a tertiary institution in the country.

(6) The information shall be provided to the Fund by the private or public entity within one month after receipt of the demand notice.

Accounts and audit

33. (1) The Board shall cause books of accounts and proper records to be kept in respect of the Fund in the form approved by the Auditor- General.

(2) The Board shall submit the accounts in relation to the Fund to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Fund shall be the same as the financial year of the Government.

Annual report and other reports

34. (1) The Board shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Fund for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

Administrative expenses of the Fund

35. The administrative and other expenses of the Fund shall be paid out of the Fund, subject to the approval of the Minister, acting in consultation -with the Minister responsible for Finance.

Tax exemption

37. The Trust Fund is exempt from payment of any form of tax.

Miscellaneous provisions

Offences

37. (1) A person who

(a) fails to deduct money from the salary of an employee who is a borrower of the Fund;

(b) fails to pay monthly deductions from the salary of a borrower to the Fund;

(c) fails to give information requested by the Board; or

(d) provides information to the Board which that person knows to be false or which that person has no reason to believe to be true commits an offence and is liable on summary conviction to a fine of not more than fifty penalty units.

(2) Where an offence under sub-section (1) is committed by a body of persons,

(a) in the case of a corporate body each director or manager of the body and the secretary to the body also commits the offence, and

(b) in the case of a partnership each partner also commits the offence.

(3) A person shall not be convicted of an offence if that person proves that the offence was committed without the knowledge or connivance of that person and that due care and diligence was exercised to prevent the commission of the offence having regard to the circumstances.

Regulations

38. The Minister may on the advice of the Board by legislative Instrument make Regulations for

(a) the imposition of fees and charges for the processing of applications of borrowers;

(b) the application for funding from the Fund;

(c) guidelines for the non-refundable processing fee;

(d) conducting investigations on an applicant for the determination of an application;

(e) conditions to be fulfilled before an application is approved;

(f) a students' loan protection scheme;

(g) means testing;

(h) the complaints committee of the Fund; and

(i) the effective implementation of this Act.

Interpretation

39. In this Act, unless the context otherwise requires,

"accredited institutions" includes tertiary institutions with accreditation from National Accreditation Board established under the National Accreditation Board Act, 2007 (Act 744);

"Board" means the Board of Trustees established for the Fund in section 5;

"eligible student" means a student who is a citizen of Ghana who is qualified under this Act;

"employer" includes an individual, a body corporate, a body of persons that is not a body corporate, an institution, licenced body, a tax authority, the Government and any organ of the Government, a registered professional body that employs a borrower and any other body or organisation from which information in respect of a borrower may be obtained;

"entity" means a company, body of persons or partnership;

"Fund" means the Students Loan Trust Fund;

"Ghana Education Trust Fund" means the Ghana Education Trust Fund established under the Ghana Education Trust Fund Act, 2000 (Act 581);

"government agency" means a Ministry, Department, non-profit making statutory body or any other agency of Government;

"Minister" means the Minister responsible for Education;

"scholarship" includes a bursary, award or grant;

"senior loan" means any other loan which is payable before any other loan is paid where there has been a default; and

"tertiary educational institution" means any institution or Centre of learning however designated, that has one of its objects, the provision of post-secondary school education through courses of instruction by any method of delivery, whether residential, distance, electronic, print, satellite or similar form of transmission, leading to the grant of certificates, diplomas and degrees and includes Universities, University Colleges, Polytechnics, Training Colleges and Technological Institutes,

Revocation and savings

40. (1) The trust Deed which established and incorporated the Students Loan Trust Fund under the Trustees (Incorporation) Act, 1967 (Act 106) is hereby revoked.

(2) Despite the revocation in subsection (1), bye laws, notices, orders, directions, appointments, loans or any other act lawfully made, given or done under the revoked Trust Deed and operational or pending immediately before the commencement of this Act shall be considered to have been made, given or done under this Act and shall continue to have effect until revoked, cancelled or terminated.