

## **THE HIGHER EDUCATION LOANS AND SCHOLARSHIPS ACT, 2016**

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GOVERNMENT OF ZAMBIA

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# ACT

**No. 31 of 2016**

Date of Assent: 6th June, 2016

**An Act to establish the Higher Education Loans and Scholarships Board; establish the Higher Education Loans and Scholarships Fund; provide for the granting, administration, investment, payment and recovery of loans; provide for the administration and granting of scholarships; facilitate the mobilisation of financial resources for loans and scholarships; and provide for matters connected with, or incidental, to the foregoing.**

[7th June, 2016]

ENACTED by the Parliament of Zambia.

Enactment

## PART I

### PRELIMINARY PROVISIONS

<b>1.</b> This Act may be cited as the Higher Education Loans and Scholarships Act, 2016, and shall come into operation on such date as the Minister may appoint by statutory instrument.	Short title and Commencement
<b>2.</b> In this Act, unless the context otherwise requires— “appointed date” means the date appointed by the Minister under section <i>one</i> ;	Interpretation
“associate” means— <i>(a)</i> a person’s nominee or employee;	
<i>(b)</i> a person’s conjugal partner or former spouse;	
<i>(c)</i> a firm of which a person, or the person’s nominee, is a partner or in charge or in control of its business or affairs;	
<i>(d)</i> a company in which a person or the person’s nominee,	

is a director or is in charge or in control of its business or affairs, or in which the person, that person's nominee, holds a controlling interest or shares amounting to more than thirty percent of the total share capital; or

(e) the trustee of a trust, where—

- (i) the trust has been created by the person; or
- (ii) the total value of the assets contributed by the person before or after the creation of the trust, amounts at any time, to not less than twenty percent of the total value of the assets of the trust;

“Board” means the Higher Education Loans and Scholarships Board established under section *three*;

“Director” means the person appointed as Director under section *ten*;

“committee” means a committee of the Board established under section *eight*;

“continuing student” means a student who has passed the examinations necessary to enable the student to advance to the following year or stage of study;

“Emoluments Commission” has the meaning assigned to it in the Constitution;

“extraordinary meeting” means a meeting convened at any time for special business of the Board;

“Fund” means the Higher Education Loans and Scholarships Fund established under section *sixteen*;

“Fund Manager” means a person appointed as such under section *eighteen*;

“higher education” has the meaning assigned to it in the Higher Education Act, 2013;

“Higher Education Authority” has the meaning assigned to it in the Higher Education Act, 2013;

“higher education institution” has the meaning assigned to it in the Higher Education Act, 2013;

“liability” means a debt, charge or obligation whether present or future, actual or contingent and whether payable or to be observed or performed in Zambia or elsewhere;

“loan” means a loan granted to a student by the Board for the purpose of defraying the costs connected with the education at a local higher education institution, including costs

Cap. 1

Act No. 4 of  
2013

Act No. 4 of  
2013

Act No. 4 of  
2013

connected with the board and lodging of the student for the purposes of attending the higher education institution;

“loan beneficiary” means a student or former student who is or was granted a loan under this Act;

“member” means a member of the Board;

“ordinary meeting” means a scheduled meeting of the Board;

“relative” means—

- (a) a person’s son, daughter, brother, sister, nephew, niece, parent, uncle, aunt, grandparent or cousin; and
- (b) a person’s spouse or the spouse of any of the persons mentioned in paragraph (a);

“repeating student” means a student who, for any reason, is compelled to repeat a term, semester or academic year;

“scholarship” means an award granted to a student by the Board for the purpose of defraying the costs connected with the student’s education at a local or foreign higher education institution, including costs connected with the board and lodging of the student for the purpose of attending the higher education institution;

“Secretary” means the person appointed as Secretary of the Board under section *eleven*;

“student” means a Zambian admitted to, or registered as a student at, a local or foreign higher education institution as a candidate for a degree, diploma or doctorate;

“Zambia Institute of Human Resources Management” means the Zambia Institute of Human Resources Management established under the Zambia Institute of Human Resources Management Act, 1997; and

“Zambia Qualifications Authority” has the meaning assigned to it in the Zambia Qualifications Authority Act, 2011.

Act. No. 11  
of 1997

Act. No. 13  
of 2011

## PART II

### THE HIGHER EDUCATION LOANS AND SCHOLARSHIPS BOARD

**3.** There is established the Higher Education Loans and Scholarships Board which is a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may, by law do or perform.

Establishment  
of Board

Seal of Board **4.** (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person generally or specifically authorised by the Board in that behalf.

(4) A document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Functions of **5.** (1) The functions of the Board are to—

Board

- (a) receive and consider loan and scholarship applications from students for the award of loans and scholarships;
- (b) administer loans and scholarships for students;
- (c) determine the criteria and terms for the grant of loans and scholarships, and the rate of interest and recovery of loans;
- (d) establish systems to secure the repayment of loans by students and the efficient utilisation and application of scholarships;
- (e) monitor and evaluate the operations and performance of the Fund and ensure accountability of the Fund by determining appropriate procedures for its management;
- (f) formulate policies and guidelines for the control and management of monies for loans and scholarships and ensure their implementation;
- (g) formulate policies to determine—
  - (i) the terms of disbursement of money from the Fund to students granted loans or scholarships by the Board;
  - (ii) the maximum amount of money to be granted by the Fund to students granted loans or scholarships by the Board; and
  - (iii) the sectors of the economy in which the monies of the Fund may be invested;

- (h) establish structures and guidelines to ensure fairness in the disbursement and application of the Fund;
- (i) advise the Minister on policy matters concerning provision of scholarships and recovery of loans from loan beneficiaries;
- (j) promote the mobilisation of donations and grants from the public and private sectors for educational purposes and investment for purposes of the Fund;
- (k) provide financial advice in educational matters to higher education institutions, parents, students and investors in the education sector;
- (l) collaborate with organisations with similar functions within and outside Zambia; and
- (m) perform any other functions conferred on the Board by or under this Act or any other written law.

(2) The Board may, in carrying out its functions under this Act —

- (a) cause to be kept and maintained a register and other records of students granted loans and scholarships by the Board;
- (b) determine the maximum number of eligible students to be granted loans and scholarships in a particular year based on availability of funds;
- (c) charge fees for services rendered by the officers and other employees of the Board; and
- (d) consider and approve its annual work plan, budget and estimates and monitor and review its financial statements.

**6.** (1) The Board consists of the following members appointed by the Minister: Composition of Board

- (a) one representative each of the Ministries responsible for—
  - (i) higher education;
  - (ii) finance;
  - (iii) foreign affairs; and
  - (iv) labour;
- (b) a representative of the Public Service Management Division;
- (c) a representative of the Attorney-General;
- (d) the Director-General of the Higher Education Authority;
- (e) the Director of the Zambia Qualifications Authority;

- (f) a representative of the Bankers' Association of Zambia;
- (g) a representative of the Zambia Federation of Employers;
- (h) a representative of the Zambia Institute of Human Resources Management; and
- (i) the Director, as an *ex-officio* member.

(2) A person shall not be appointed as a member of the Board if that person—

- (a) is not a citizen of Zambia;
- (b) is an undischarged bankrupt;
- (c) has a mental or physical disability that makes the person incapable of performing the functions of a member; or
- (d) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine.

(3) The Chairperson of the Board shall be appointed by the Minister.

(4) The Board shall elect the Vice-Chairperson of the Board from amongst themselves.

(5) A member of the Board shall hold office for a period of three years from the date of appointment and is eligible for re-appointment for one further term of three years.

(6) A member may resign upon giving one month's notice, in writing, to the Minister.

(7) The office of member becomes vacant if the member—

- (a) dies;
- (b) is absent, without reasonable excuse, from three consecutive meetings of the Board of which the member had notice without the prior approval of the Board;
- (c) ceases to be a representative of the organisation which nominated the member;
- (d) is found guilty of professional misconduct by the relevant professional association or body;
- (e) is convicted of an offence and sentenced to imprisonment for a period exceeding six months without the option of a fine;
- (f) is mentally or physically incapable of performing the duties of a member; or
- (g) is declared bankrupt.

(8) The Minister shall, whenever the office of a member becomes vacant before the expiry of the term of office, appoint another person in place of that member but that person shall hold office as a member only for the unexpired part of the term.

7. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure. Proceedings of Board

(2) The Board shall meet for the transaction of its business at least once in every three months at such places and times as the Chairperson may determine.

(3) Six members shall form a quorum at a meeting of the Board.

(4) There shall preside at a meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; and

(c) in the absence of the Chairperson and the Vice-Chairperson, such other member as the members present may elect for the purposes of that meeting.

(5) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(6) Where a member is for any reason unable to attend a meeting of the Board, the member may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and such person shall be deemed to be a member for the purpose of that meeting.

(7) The Board may invite a person whose presence is in its opinion desirable to attend and to participate in the deliberations of the meeting of the Board, but that person shall have no vote.

(8) The validity of any proceedings, acts or decisions of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

(9) The Board shall cause to be kept minutes of its proceedings.

Committees	<p><b>8.</b> (1) The Board may, for the purpose of performing its functions under this Act, establish such committees as it considers necessary and delegate to any of those committees such of its functions as it considers fit.</p> <p>(2) The Board may appoint as members of a committee, persons who are or are not members of the Board, except that at least one member of the Board shall be a member of a committee.</p> <p>(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.</p> <p>(4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.</p>
Emoluments	<p><b>9.</b> A member of the Board or any committee of the Board shall be paid such emoluments as the Emoluments Commission may determine.</p>
Director	<p><b>10.</b> (1) The Board shall appoint a Director on such terms and conditions as the Board may determine.</p> <p>(2) The Director shall be the chief executive officer of the Board and shall be responsible, under the direction of the Board, for the day-to-day administration of the Board.</p> <p>(3) The Director shall attend meetings of the Board and may address those meetings but shall have no vote on any matter.</p>
Deputy Directors, Secretary and other staff	<p><b>11.</b> (1) The Board may appoint, on such terms and conditions as it may determine, Deputy Directors, the Secretary and such other staff as it considers necessary for the performance of the functions of the Board.</p> <p>(2) The Secretary shall perform corporate secretarial duties for the Board and such other functions as the Board may determine, under the direction of the Board and the Director.</p>
Disclosure of interest	<p><b>12.</b> (1) A person who is present at a meeting of the Board or any committee at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.</p>

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**13.** (1) A person shall not, without the consent, in writing, given by or on behalf of the Board, publish or disclose to an unauthorised person, otherwise than in the course of duties of that person, the contents of a document, communication or information whatsoever, which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

Prohibition  
of  
publication  
or  
disclosure of  
information  
to  
unauthorised  
persons

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

**14.** (1) A member of the Board shall, on appointment, take an oath in accordance with the Official Oaths Act.

Oath on  
appointment  
Cap. 5

(2) The Director, Deputy Directors, Secretary and other staff of the Board shall, on appointment, take an oath in accordance with the Official Oaths Act.

Cap. 5

**15.** An action or other proceeding shall not lie or be instituted against a member, a member of a committee of the Board or a member of staff of the Board for or in respect of an act or thing done or omitted to be done in good faith in the performance of any of the functions conferred under this Act.

Immunity

### PART III THE HIGHER EDUCATION LOANS AND SCHOLARSHIPS FUND

**16.** (1) There is established the Higher Education Loans and Scholarships Fund to provide loans and scholarships to students who require financial assistance or who are recognised for academic excellence.

Establishment  
of Fund

(2) Despite the generality of subsection (1), the Fund shall provide—

- (a) monies for granting loans to assist students to pursue higher education within Zambia; and
- (b) scholarships to assist students to pursue higher education within or outside Zambia.

(3) The Fund shall consist of—

- (a) such monies as may be appropriated by Parliament for the purposes of the Fund;
- (b) such monies as are received by way of grants, gifts, endowments, fees, loan repayments, interest and donations;
- (c) monies that may vest in or accrue to the Fund;
- (d) charges and fees for services provided by the Board; and
- (e) subject to the approval of the Minister, monies raised by way of loans or interest accrued from any investment made by the Board.

Disbursement from Fund

**17.** (1) There shall be paid from the Fund monies required to meet the objectives of the Fund as may be approved by the Board in accordance with section *sixteen*.

(2) The Fund shall not be used to provide personal emoluments, personal loans or for investment in any manner other than that authorised under this Act or any other written law for the purposes of the Fund.

Fund Manager and other staff

**18.** (1) The Board may, with the approval of the Minister, appoint a Fund Manager to manage the affairs of the Fund.

(2) The Board may appoint such other staff as the Board considers necessary to assist the Fund Manager.

(3) The Fund Manager appointed under subsection (1) is responsible to the Board but shall report to the Director for administrative purposes.

Bank account

**19.** (1) The monies forming part of the Fund shall, pending the investment or application of the monies in accordance with this Act, be paid or transferred into a dedicated bank account with a registered bank.

(2) The monies of the Fund shall be index-linked.

(3) The interest and income earned on the cash deposits of the Fund shall, subject to the approval of the Minister responsible for finance, be tax free.

**20.** The Board may, with the approval of the Minister, invest any monies of the Fund that are not immediately required for the purposes of the Fund in the manner authorised by the Minister, in writing. Investment of Fund

## PART IV

### ADMINISTRATION OF LOANS AND SCHOLARSHIPS

**21.** (1) A student is eligible for consideration for a loan if the student— Eligibility for loan or scholarship

- (a) is admitted to, or registered as a student at, a higher education institution within Zambia for a course of at least one academic year's duration; and
- (b) satisfies such other conditions as the Minister may prescribe by statutory instrument.

(2) A student is eligible for consideration for a scholarship if the student satisfies such conditions as the Minister may prescribe by statutory instrument.

**22.** (1) A student who wishes to be considered for the grant of a loan or scholarship shall apply to the Board in the prescribed manner and form. Application for loan or scholarship

(2) A person who, in connection with an application for a loan or scholarship, gives false or misleading information to the Board, commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to a term of imprisonment not exceeding five years, or to both.

**23.** (1) The Board shall, within forty-five days from the date of the closure of the application period, consider applications for loans or scholarships and make a determination granting or not granting a loan or scholarship in respect of each application. Consideration of, and decision on, application for loan or scholarship

(2) The Board shall inform an applicant of its decision on the application within seven days from the date of making the determination referred to in subsection (1).

**24.** (1) Subject to the provisions of this Act, a loan or scholarship granted to a student shall not exceed the aggregate of— Extent of loan or scholarship

- (a) the fees payable to the higher education institution per academic year;
- (b) a prescribed sum of money per academic year to assist in defraying the cost of books and other supplies required by the student in the student's faculty or department at the higher education institution; and

	<p>(c) a living allowance in the prescribed amount per academic year.</p>
	<p>(2) The fees or other charges that are payable to a higher education institution by a student granted a loan or scholarship shall be paid by the Board directly to the institution.</p>
	<p>(3) The Board shall, in granting a loan to a student, require repayment of the loan at such times within such periods as the Board may determine.</p>
Conditions of loans and scholarships	<p><b>25.</b> (1) A loan or scholarship granted by the Board may be subject to such conditions as the Board may determine.</p>
	<p>(2) A loan or scholarship shall be granted in respect of a particular course of study and shall not be used for any other purpose.</p>
Loans and scholarships offices at higher education institutions	<p><b>26.</b> (1) The Board may, in consultation with a higher education institution, operate an office at the higher education institution for purposes of administering loans and scholarships to students of that higher education institution.</p>
	<p>(2) The office referred to in subsection (1) may, on behalf of the Board—</p>
	<p>(a) administer loans and scholarships granted to students admitted to, or registered at, the institution;</p>
	<p>(b) receive loan and scholarship applications from students admitted to, or registered at, the institution;</p>
	<p>(c) consider and assess applications using the criteria for the granting of loans and scholarships determined by the Board;</p>
	<p>(d) grant loans and scholarships if the criteria are met, after ascertaining that funds are available; and</p>
	<p>(e) enter into written agreements with students granted loans or scholarships on terms and conditions determined by the Board.</p>
Obligations and liability of loan beneficiary	<p><b>27.</b> (1) Subject to this section, a loan beneficiary shall repay the loan and any interest or other additional charges accruing on the loan in accordance with the loan agreement entered into between the Board and student.</p>
	<p>(2) A loan beneficiary may repay the loan wholly or in part before the due date.</p>

(3) A loan beneficiary shall, in accordance with this Act or any other written law, within one year after completion of the studies in respect of which the loan was granted or within such period as the Board may determine—

- (a) inform the Board of the beneficiary's contact address;
- (b) begin repayment of the loan together with any interest accrued on the loan; and
- (c) if the loan beneficiary is in formal employment, authorise the employer to deduct the loan repayment and to remit it to the Board in such manner as the Board may direct.

(4) A loan beneficiary who is self-employed in any trade, occupation or profession upon completion of the studies in respect of which the loan was granted or upon termination of such studies for any reason shall, not later than twelve months after the completion or termination of studies or engagement in self-employment, remit to the Board such amounts of money as the Board may determine for the purpose of settling the loan.

(5) A failure by a loan beneficiary to comply with the obligations specified in this section renders the loan immediately repayable.

**28.** (1) The Board may, by written notice, inform the employer of a loan beneficiary—

Obligations of employer

- (a) that the loan beneficiary is indebted to the Board on account of a loan granted by the Board to the loan beneficiary; and
- (b) concerning the deductions that the employer has to make from the remuneration of the loan beneficiary.

(2) An employer who is given notice under subsection (1) shall make deductions from the remuneration payable by the employer to the loan beneficiary in accordance with prescribed scales.

(3) An amount deducted by an employer under subsection (2) shall be paid to the Board and the amount so paid over shall be regarded as a proportionate discharge of the loan by the loan beneficiary.

(4) An employer who fails to make a deduction and payment in accordance with this section is liable to a penalty equal to ten percent of the total amount of the repayment for each month that the loan remains unpaid.

(5) The Board shall bear the administration costs for the deductions made by the employer.

Obligation of  
Zambia  
Revenue  
Authority  
Cap. 323

Default and  
recovery of  
loans

Record of  
loans  
and  
scholarships

Loan  
insurance  
scheme

**29.** Notwithstanding the provisions of the Income Tax Act on confidentiality of taxpayer's information, the Zambia Revenue Authority shall, at the request of the Board, furnish the Board with the names and address of the employer of a loan beneficiary, if such information is known to the Zambia Revenue Authority.

**30.** (1) Where a loan beneficiary fails to make repayments, in accordance with the loan agreement, the Board may place the loan beneficiary's name on a list of defaulting debtors published by any person or body whose business it is to compile and publish such lists.

(2) The Board shall, before placing a loan beneficiary on a list referred to in subsection (1)—

- (a) notify the loan beneficiary of the failure to make repayments and the intention of the Board to act in terms of subsection (3); and
- (b) afford the loan beneficiary a reasonable opportunity to pay the amount in arrears on the loan.

(3) A debt owed by a loan beneficiary who defaults on repayment of the loan is recoverable as a civil debt owing to the Board.

(4) The Board shall, for the purpose of repayment of a loan—

- (a) enforce the debt incurred by a loan beneficiary in accordance with the applicable laws;
- (b) where a loan beneficiary is outside Zambia, request the Zambian mission in the country in which the defaulting loan beneficiary is located to assist in repatriating the funds owing at the loan beneficiary's own expense; and
- (c) add any expenses incurred by the Board and other necessary costs of a defaulting loan beneficiary to the amount loaned.

**31.** The Board shall keep and maintain a record of the loan and scholarship applications and grants and awards and related information for a minimum period of ten years from the date of the repayment of the loan.

**32.** (1) The Board shall insure loans granted under this Act against such risks as the Board may determine.

(2) The insurance premium payable under this section shall be borne by the loan beneficiary.

(3) The Board may appoint a loan insurance provider on such terms and conditions as the Board considers necessary.

**PART V**  
**FINANCIAL PROVISIONS**

<b>33.</b> (1) The funds of the Board shall consist of such monies as may—	Funds of Board
(a) be appropriated to the Board by Parliament;	
(b) be paid to the Board by way of grants or donations; or	
(c) vest in or accrue to the Board.	
(2) The Board may, subject to the approval of the Minister—	
(a) accept monies by way of grants or donations from any source within or outside Zambia; and	
(b) raise by way of loans or otherwise, such monies as it may require for the discharge of its functions.	
(3) There shall be paid from the funds of the Board—	
(a) the emoluments of the members and staff of the Board;	
(b) such travelling and other allowances for the members and the members of a committee when engaged on the business of the Board, at such rates as the Emoluments Commission may approve; and	
(c) any other expenses incurred by the Board in the performance of its functions under this Act.	
(4) The Board may, with the approval of the Minister, invest in such manner as it considers appropriate such funds of the Board that it does not immediately require for the discharge of its functions.	
<b>34.</b> The financial year of the Board shall be a period of twelve months ending on 31st December in each year.	Financial year
<b>35.</b> (1) The Board shall cause to be kept proper books of accounts and other records relating to its accounts.	Accounts and audit
(2) The accounts of the Board shall be audited annually by the Auditor General or an auditor appointed by the Auditor General.	
(3) The Auditor General's fees shall be paid by the Board.	
<b>36.</b> (1) As soon as practicable, but not later than ninety days from the end of the financial year, the Board shall submit to the Minister a report concerning its activities during the financial year.	Annual report
(2) The report referred to in subsection (1) shall include information on the financial affairs of the Board and there shall be appended to the report—	

- (a) an audited balance sheet;
- (b) an audited statement of comprehensive income; and
- (c) such other information as the Minister may require.

(3) The Minister responsible for finance shall cause to be prepared an annual statement of the income and expenditure of the Board to be laid before the National Assembly.

## PART VI

### GENERAL PROVISIONS

Regulations

**37.** (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

(2) Despite the generality of subsection (1), the regulations made under that subsection may prescribe the—

- (a) manner and form of applying for a loan or scholarship;
- (b) loan application fees or other charges for loans;
- (c) form of register to be maintained by the Board;
- (d) form of insurance scheme to be established and the application of the scheme;
- (e) modalities of ensuring the efficient and effective recovery of loans; and
- (f) measures for tracing loan beneficiaries for purposes of ensuring the repayment of loans.

Savings and transitional provisions

**38.** The savings and transitional provisions are as set out in the Schedule.

SCHEDULE  
(Section 38)

SAVINGS AND TRANSITIONAL PROVISIONS

<p><b>1.</b> The Bursaries Committee constituted pursuant to the Education (Bursaries Committee) Regulations, 1973, shall stand dissolved on the appointed date.</p>	Dissolution of Bursaries Committee S. I. No. 182 of 1973
<p><b>2.</b> (1) On or after the appointed date, the Minister may, by statutory instrument, approve arrangements under which all or some of the public officers from the Bursaries Committee shall be transferred to the Board from the public service.</p> <p>(2) Where a person is transferred in accordance with the arrangements made under subparagraph (1), the terms and conditions of that person with the Board shall be no less favourable than those applicable while in the public service, and for the purposes of determining rights to, or eligibility for, any pension, gratuity, leave or other benefits, the pensionable service of that person with the public service shall be treated as continuous service.</p>	Transfer of staff
<p><b>3.</b> (1) On or after the appointed date, there shall be transferred to, vest in and subsist against the Board by virtue of this Act and without further assurance—</p> <p>(a) the affairs of the Bursaries Committee; and</p> <p>(b) subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the Government in respect of Bursaries Committee.</p> <p>(2) Except as provided in this Act, every deed, bond and agreement, other than an agreement for personal service, to which the Government was a party immediately before the appointed date in respect of the Bursaries Committee, whether or not of such a nature that rights and obligations under it could be assigned shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as from the date of its assignment as if—</p> <p>(a) the Board had been party to it;</p> <p>(b) for a reference to the Government there were substituted, with respect to anything falling to be done on or after the appointed date, a reference to the Board; or</p> <p>(c) for a reference to an officer of the Bursaries Committee, not being a party to it and beneficially interested in it,</p>	Vesting of assets and liabilities

there were substituted, with respect to anything falling to be done on or after the appointed date, a reference to such officer of the Board as the Board shall designate.

Registration of property

**4.** (1) Where under this Act, any property, rights or obligations of the Government through the Bursaries Committee are deemed to be transferred to the Board in respect of which transfer a written law provides for registration, the Board shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

(2) The registration authority referred to in subparagraph (1), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and registration fees or other duties shall not be payable in respect of the transaction.

Legal proceedings

**5.** (1) Any legal proceeding or application pending immediately before the appointed date by or against the Government in respect of the Bursaries Committee may be continued by or against the Board.

(2) After the appointed date, proceedings in respect of any right or obligation which was vested in, held, enjoyed, incurred, suffered by, or sustained against the Government in respect of the Bursaries Committee, may be instituted by or against the Board.