

M O N T S E R R A T

NO. 12 OF 2008

DEVELOPMENT BONDS ACT 2008

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I ASSENT

Peter Waterworth
Governor

DATE: 25.11.08

M O N T S E R R A T**NO. 12 OF 2008**

AN ACT TO AUTHORISE THE MINISTER TO BORROW MONEY BY THE ISSUE OF DEVELOPMENT BONDS.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council of Montserrat and by the Authority of the same as follows:—

Short title

1. This Act may be cited as the Development Bonds Act 2008.

Interpretation

2. In this Act, unless the context otherwise provides —

“**holder**” means the person for the time being entered in the register as the holder of a bond and the personal representatives of such holder;

“**investor**” refers to a person, group, broker dealer, organization, firm or company that purchases bonds;

“**Minister**” means the Minister responsible for Finance;

“**Participating Government**” means a Government which is a party to the Agreement establishing the Eastern Caribbean Securities Regulatory Commission made on 24th day of November 2000;

“**register**” means any register kept and maintained by a share registry licensed under the Securities Act in which the record of holders are entered manually or in electronic form;

“**Securities Act**” means the Securities Act (Cap. 11.01);

“**Securities Registry**” means the Eastern Caribbean Central Securities Registry Limited or such other securities registry licensed by the Eastern Caribbean

Securities Regulatory Commission established by Article 3 of the Eastern Caribbean Securities Regulatory Commission Agreement dated 24th November, 2000.

Minister authorised to borrow money for specified purposes

3. (1) The Minister may, from time to time, borrow money in terms of this Act.

(2) Any money borrowed in terms of this Act shall be applied to the following purposes—

- (i) the repayment of moneys granted to Government by statutory corporations;
- (ii) the financing of projects approved in the estimates prepared in accordance with the Appropriation Act;
- (iii) the repayment of public debt;
- (iv) the meeting of expenses incurred in raising and administering the loan.

(3) The raising of money under this Act shall be subject to the provisions of sections 30 and 32 of the Public Finance (Management and Accountability) Act 2008.

Application of the Act

4. Any loan borrowed by the Minister under the authority of any Act before the coming into force of this Act may be repaid in accordance with the terms of this Act unless the Act authorising the borrowing specifically provides otherwise.

Borrowing by issue of Registered Development Bond

5. In exercising the power conferred on him under section 3 the Minister shall issue Bonds, to be known as Registered Development Bond, on such terms and conditions as he may deem appropriate and such terms and conditions shall be set forth in a prospectus inviting applications for the Bonds, and such prospectus shall be published in three consecutive issues of the *Gazette* and a newspaper circulating publicly in Montserrat.

Issuing of bonds

6. With respect to the issue of Bonds the following provisions shall have effect—

- (a) each bond shall be for an amount directed by the Minister;
- (b) bonds issued in a certificated form shall be authenticated in such names, as may from time to time, be approved by the Minister;
- (c) bonds issued in an uncertificated form shall be authorised by the Minister or by persons authorised by him.

Loan to be paid out of the Consolidated Fund

7. (1) The Minister shall appropriate out of the Consolidated Fund the necessary sum to pay the principal and interest represented by the bonds issued by the Minister and out of the sum so appropriated shall remit such amount at such

time as will enable it to pay the principal and interest on every bond when such bond falls due, and shall cause every bond to be paid when it falls due.

(2) Bonds shall not be deemed to be outstanding for the purpose of this Act by reason only that one or more of the bond holders have not given instructions for payment on the day appointed for payment and have in consequence not been paid.

The securities registry

8. (1) The Securities Registry shall keep or cause a register to be kept in such form as may be prescribed by the Minister containing particulars of every bond issued.

(2) The ownership of bonds, which are issued by the Minister, may subject to the provisions of this Act, be evidenced and transferred without a written instrument.

Contents of register prima facie evidence

9. (1) A register of securities is prima facie evidence of any matters which are by the provisions of section 8(1) and any regulations made under this Act directed or authorised to be inserted in it.

(2) A register of securities or an extract thereof shall be admissible in evidence in any court by means of a document printed from the registry system and certified by a director or authorised officer of the share registry which maintains the relevant register.

Accountant General's authority to pay principal and interest

10. The Accountant General shall effect payment of the principal and interest on every bond in accordance with instructions issued by the holder of the bond.

Confidentiality

11. (1) No person who has acquired knowledge in his capacity as secretary, officer, employee or agent of the Government shall disclose to any person or governmental authority the identity, assets, liabilities, transactions or other information in respect of a holder except —

- (a) with the written authorisation of the holder or of his heirs or legal personal representatives; or,
- (b) for the purpose of the performance of his duties within the scope of his employment in conformity with the provisions of this Act or rules governing the operations of the Securities Exchange or the Securities Registry; or
- (c) when lawfully required to make disclosure by any court of competent jurisdiction; or
- (d) under the provisions of any law of Montserrat or agreement among the Participating Governments.

(2) Every person who contravenes the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Regulations

12. The Governor in Council may make regulations for the better carrying out of the provisions of this Act.

Repeal

13. (1) The Development Bond Act (Cap. 11.27) is repealed.

(2) Notwithstanding the repeal of the Development Bond Act, any monies borrowed under that Act shall continue to be administered as if they were borrowed under this Act.

Joseph Meade
SPEAKER

Passed the Legislative Council this 21st day of October, 2008.

Judith Jeffers
CLERK OF COUNCILS