

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 133A.

*Loans (Overseas Borrowings) (No. 2).*

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was not vested in any Minister in the Determination of Titles and Responsibilities of Ministers made prior to this up-dating, but from the fact that the 1973 Act was vested in the Minister for Finance, presumably this Act was vested in that Minister.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

TABLE OF CONTENTS.

	<i>Page.</i>
<i>Loans (Overseas Borrowings) Act (No. 2)</i> .....	3
Regulations .....	—
Subsidiary Legislation .....	—
Appendix—	
Source of Act.	



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ARRANGEMENT OF SECTIONS.

1. Interpretation—  
"loan agreement."
2. General borrowing powers.
3. Power to issue instruments (including bonds) under loan agreements.
4. Pre-appropriation of moneys for repayment of loans.
5. Effect of agreements.
6. Exemptions from taxation, etc.
7. Operation of certain acts.
8. Regulations.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

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*Loans (Overseas Borrowings) (No. 2) Act.*

Being an Act to provide for the raising of loans overseas, and for related purposes.

**1. Interpretation.**

(1) In this Act "loan agreement" means an agreement of a kind referred to in Section 2(1) whether known as a loan agreement or a bond purchase agreement or otherwise.

(2) A reference in this Act to a loan agreement shall be read as including a reference to any bond, promissory note or other instrument issued under Section 3 for the purpose of giving effect to the terms of the agreement, and a reference to the principal of or interest or other charges on a loan shall be read as including a reference to any amount payable under any such bond, promissory note or instrument.

**2. General borrowing powers.**

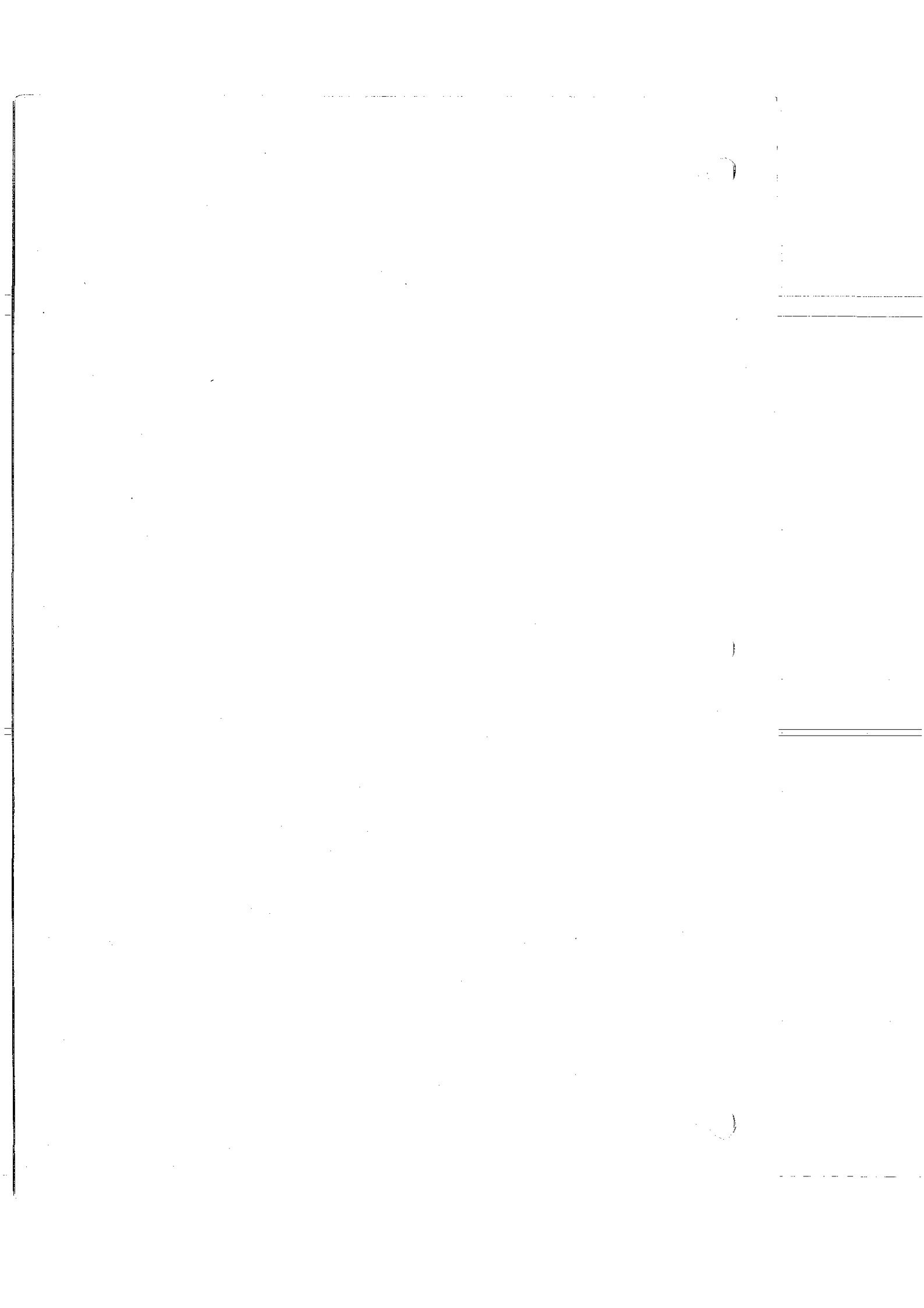
(1) The Head of State, acting on advice, may, on behalf of the State, borrow from or through overseas financial institutions, in such manner and on such terms and conditions as are agreed on by the Head of State, acting on advice, and the institutions, such sums as are specified in Subsection (2), for the purpose of—

- (a) meeting the expenses of borrowing; and
- (b) works and services of the State; and
- (c) the purchase of equity in companies; and
- (d) making loans to—
  - (i) the Papua New Guinea Electricity Commission for the purpose of development of electricity supply works; or
  - (ii) the Papua New Guinea Harbours Board for the purposes of the Board; or
  - (iii) the Housing Commission for the purposes of the Commission; or
  - (iv) the Papua New Guinea Development Bank for the purposes of the Bank; or
  - (v) the Investment Corporation of Papua New Guinea for the purposes of the Corporation.

(2) The sums which may be borrowed under Subsection (1) shall be such that the total value of overseas commercial debt which will be owed by the State after any borrowing shall not exceed 125% of the estimated ordinary revenue for the year in which the borrowing takes place.

(3) For the purposes of Subsection (2)—

"ordinary revenue" includes revenue from taxes, levies, duties, fees, rents and royalties and also from profits and income from any investment or undertaking of the State, but does not include any loans, grants or other forms of external aid or any capital raised;



"overseas commercial debt" means sums owed by the State in respect of borrowings under—

- (a) *Loans (Overseas Borrowings) Act*; and
- (b) this Act; and

"year in which the borrowing takes place" means the financial year in which the sums borrowed are received.

(4) Any sum borrowed under Subsection (1) shall be applied only in accordance with the loan agreement, with such modifications (if any) as are agreed on by the Head of State, acting on advice, and the institution concerned.

(5) A loan agreement shall be made in the name of the State and be executed on behalf of the State by the Minister or a person authorized by the Minister for the purpose.

(6) As soon as practicable after the execution of a loan agreement, the Minister shall cause a copy of the agreement to be laid before the Parliament for its information.

(7) Nothing in this section or in a loan agreement constitutes an appropriation of the proceeds of a loan.

*(Replaced by No. 19 of 1981, amended by No. 53 of 1983.)*

**3. Power to issue instruments (including bonds) under loan agreements.**

(1) Notwithstanding anything in any other law, the Head of State, acting on advice, may, on behalf of the State, issue such bonds, promissory notes and other instruments, and on such terms and conditions, as are necessary or convenient for the purpose of giving effect to the terms of a loan agreement.

(2) A bond, promissory note or instrument, issued under Subsection (1), shall be executed on behalf of the State by the Minister or a person authorized by the Minister for the purpose.

**4. Pre-appropriation of moneys for repayment of loans.**

All payments of principal and interest and other charges payable under a loan agreement shall be made out of the Consolidated Revenue Fund which is, to the necessary extent, appropriated accordingly.

**5. Effect of agreements.**

A loan agreement entered into under this Act has the force of law as if contained in this Act, and applies notwithstanding anything in any other law.

**6. Exemptions from taxation, etc.**

Notwithstanding anything in any other law, where a loan agreement provides that any person, income, matter or thing shall be exempt, wholly or partly and absolutely or conditionally, from any rate, charge, tax, duty, levy, fee or imposition under any law, the person, income, matter or thing is exempt accordingly.

**7. Operation of certain acts.**

(1) Subject to Subsection (2), nothing in the *Loans Securities Act* applies to or affects this Act or any agreement entered into under this Act.

(2) Part VI. of the *Loans Securities Act* applies to and in relation to all sums borrowed under this Act.

(3) Nothing in this Act affects the operation of the *Loans and Assistance (International Agencies) Act* or the *Loans (Overseas Borrowings) Act*.

**8. Regulations.**

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.



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CHAPTER NO. 133A.

*Loans (Overseas Borrowings) (No. 2).*

APPENDIX.

SOURCE OF THE LOANS (OVERSEAS BORROWINGS) (No. 2) ACT.

Part A.—Previous Legislation.

*Loans (Overseas Borrowings) Act 1976 (No. 32 of 1976)*

as amended by—

*Loans (Overseas Borrowings) (Amendment) Act 1978 (No. 72 of 1978)*

*Loans (Overseas Borrowings) (Amendment) Act 1979 (No. 44 of 1979)*

*Loans (Overseas Borrowings) (Amendment) Act 1981 (No. 19 of 1981)*

*Loans (Overseas Borrowings) (Amendment) Act 1983 (No. 53 of 1983).*

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference <sup>1</sup> .
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8

<sup>1</sup>Unless otherwise indicated, references are to the Act set out in Part A.

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