

Malawi

## Higher Education Students' Loans and Grants Act Chapter 30:14

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# Malawi

## Higher Education Students' Loans and Grants Act Chapter 30:14

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*[2 of 2015; G.N. 11/2015]*

**An Act to make provision for the establishment of the Higher Education Students' Loans and Grants Board; for the establishment of the Higher Education Students' Loans and Grants Fund; for the procedure and criteria for granting student loans and student grants; and for matters incidental thereto and connected therewith**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Higher Education Students' Loans and Grants Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**accredited institution**” means an institution of higher education in Malawi which is accredited under the National Council for Higher Education Act;

*[Cap. 30:12]*

“**Board**” means the Higher Education Students' Loans and Grants Board established under [section 3](#);

“**Chairperson**” means the Chairperson of the Board appointed pursuant to [section 5](#), and includes any person acting in that capacity;

“**committee**” means a committee of the Board;

“**eligible student**” means a student who is eligible to receive a student loan or a student grant under this Act;

“**employer**” means an employer of a loan beneficiary and includes the Government;

“**Executive Director**” means the Executive Director of the Board appointed under [section 15](#);

“**Fund**” means the Higher Education Students' Loans and Grants Fund established under [section 20](#);

“**grant beneficiary**” means a student who has received a student grant under this Act;

“**higher education**” means the education provided at the level of Degree or Advanced Diploma;

“**loan beneficiary**” means a student who has been granted a student loan under this Act;

“**member**” means a member of the Board or of a committee of the Board and includes a member's designated representative;

“**student**” means any person admitted to an accredited institution;

“**student grant**” means money awarded to a student by Government to enable the student to meet all or any of the students’ cost of higher education with no requirement for the student to repay the money to Government; and

“**student loan**” means money awarded to a student by Government to enable the student to meet all or any of the students’ costs of higher education and which the student will be required to pay back to Government.

## **Part II – Establishment of Higher Education Students’ Loan and Grants Board**

### **3. Establishment of the Board**

There is hereby established a Board to be known as the Higher Education Students’ Loans and Grants Board (in this Act hereinafter referred to as the “Board”) which shall—

- (a) be a body corporate with perpetual succession and a common seal; and
- (b) be capable of doing all such other things or acts which may lawfully be done or performed by a body corporate.

### **4. Functions and powers of the Board**

The functions and powers of the Board shall be to—

- (a) control and manage the Fund;
- (b) receive and consider applications for student loans and student grants from students;
- (c) determine the maximum number of eligible students to be granted student loans and student grants in any one particular year;
- (d) administer and supervise the process of payment of student loans and student grants, and repayment of student loans;
- (e) keep a register and other records of loan beneficiaries and grant beneficiaries;
- (f) advise the Minister on matters of policy and law concerning the grant of student loans and student grants, and recovery of such student loans;
- (g) establish operational links between the Board and accredited higher education institutions for facilitating a smooth, efficient and effective administration of student loans and student grants;
- (h) establish operational links with employers of loan beneficiaries for the purpose of facilitating the recovery of student loans;
- (i) establish and maintain links with other persons, bodies or organizations within or outside Malawi, as the Board may consider appropriate, for the furtherance of the purposes for which the Board is established;
- (j) conduct research and maintain a databank on other local and external scholarships, sponsorships and awards that may be accessed by students;
- (k) notwithstanding the Limitation Act, with the assistance of the students’ respective employers or otherwise in accordance with the provisions of this Act, recover outstanding loans that were granted to students under students’ loan schemes which were introduced in the 1985/1986 until the commencement of this Act;

*[Cap. 6:02]*

- (l) approve staff establishment and development plans;

- (m) consider and approve the annual estimates of the Fund submitted by the Executive Director;
- (n) monitor and review financial statements and authorize expenditure;
- (o) appoint independent auditors for the Board;
- (p) appoint committees of the Board;
- (q) appoint employees of the Board and determine their term and conditions of service;
- (r) formulate and implement financial policies of the Board;
- (s) with the approval of the Minister and subject to the Public Finance Management Act, borrow money for the furtherance of the objectives of the Act;

[Cap. 37:02 ]

- (t) receive gifts, donations or grants from any person, organization or body within or outside Malawi, for the furtherance of the objectives of this Act;
- (u) demand and receive fees for services rendered to other institutions by officers and other employees of the Board;
- (v) ensure the overall efficient and effective implementation of the provisions of this Act; and
- (w) do such acts or things provided for in this Act or any other written law which may, in the opinion of the Board, be necessary for the proper exercise of the functions of the Board.

## 5. Composition of the Board

- (1) The Board shall consist of—
  - (a) the following members appointed by the President and confirmed by the Public Appointment Committee—
    - (i) the Chairperson; and
    - (ii) six other persons with technical qualifications and experience in matters of higher education, finance, law, banking or commerce, at least three of which shall be women; and
  - (b) the following *ex officio* members—
    - (i) the Secretary responsible for education, or his designated representative;
    - (ii) the Secretary to the Treasury, or his designated representative;
    - (iii) the Secretary responsible for human resource management and development, or his designated representative; and
    - (iv) the Secretary responsible for gender or his designate representative.
- (2) A person appointed as a member under subsection (1)(a), shall have technical qualifications or experience in matters of higher education, finance, law, banking or commerce.
- (3) A person appointed as a member under subsection (1)(a) shall not, by virtue of his appointment, be deemed to be an employee in the Public Service.
- (4) The Minister shall publish in the *Gazette* names of all members of the Board, as first constituted, and every change in the membership of the Board.
- (5) A person shall not be qualified to be appointed a member under subsection (1)(a) if that person—
  - (a) holds a political office;
  - (b) is an employee in the Public Service;

- (c) has been declared bankrupt by a court of law; or
  - (d) has, in the preceding seven years, been convicted of an offence and sentenced to a term of imprisonment without an option of a fine.
- (6) The Members of the Board shall, at the first meeting of the Board, appoint one of their number to be the Vice-Chairperson of the Board.
- (7) An *ex officio* member shall not be eligible to be appointed Chairperson or Vice-Chairperson.

## 6. Tenure of office and vacancies

- (1) A member, other than an *ex officio* member, shall hold office for a term of three years, and may be eligible for re-appointment for one more term.
- (2) When making an appointment after the expiry of a term of office of a member, the President shall have regard to the need to maintain a reasonable degree of continuity in the membership of the Board so that at least one third of the appointed members shall be re-appointed for the next term of office.
- (3) A vacancy in the office of a member other than an *ex officio* member, shall occur if the member—
- (a) dies;
  - (b) becomes disqualified under [section 5 \(5\)](#);
  - (c) fails, without the permission of the Chairperson to attend three consecutive meetings of the Board of which he has had notice;
  - (d) becomes incapacitated by reason of physical or mental disability;
  - (e) resigns in accordance with subsection (4); or
  - (f) is removed by the President in accordance with subsection (5).
- (4) A member other than an *ex officio* member, may at any time, resign from his office by giving one month written notice to the Chairperson, who shall forward the notice of resignation to the President.
- (5) The President may remove an appointed member on any of the following grounds—
- (a) if the member engages in conduct that brings the Board into disrepute;
  - (b) incompetence in the execution of his duties as a member; or
  - (c) if the member becomes disqualified under [section 5 \(5\)](#).
- (6) Except for an *ex officio* member, a vacancy in the membership of the Board shall be filled by the appointment of a new member by the President.
- (7) A person appointed to fill a vacancy shall serve for the remainder of the term of office of his predecessor, but a person shall not be appointed to fill a vacancy if the remainder of the term of office of the predecessor is less than six months.

## 7. Committees of the Board

- (1) The Board shall appoint the following committees—
- (a) Loans and Grants Disbursement Committee;
  - (b) Finance and Administration Committee;
  - (c) Loans Recovery Committee; and
  - (d) any other committee that the Board may deem necessary.

- (2) The Board shall appoint a Chairperson and Vice-Chairperson for each committee from amongst the members of the Board.

## 8. Meetings of the Board

- (1) The Board shall meet at least once every three months, at such times and places and on such dates, as the Chairperson may determine, for the transaction of business.
- (2) The Chairperson shall convene ordinary meetings of the Board by giving not less than fourteen days written notice to the members.
- (3) The Chairperson, or in his absence, the Vice-Chairperson, may, where necessary, call for an extraordinary meeting of the Board, at such place and time as he may appoint:  
  
Provided that the Chairperson or the Vice-Chairperson shall call for an extraordinary meeting upon the written request of more than four members and within seven days of the request being made.
- (4) The quorum at any meeting of the Board shall be six members.
- (5) The Chairperson, or in his absence, the Vice-Chairperson, shall preside at any meeting of the Board.
- (6) In the absence of both the Chairperson and the Vice-Chairperson, members present and forming a quorum shall elect one of the appointed members to preside over a meeting.
- (7) The decision of the Board on any matter, at any meeting, shall be that of the majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.
- (8) The Board shall keep minutes of any of its meetings.
- (9) An appointed member shall attend meetings of the Board in person.
- (10) The provisions of this Act relating to the meetings of the Board shall apply *mutatis mutandis* to meetings of a committee of the Board.
- (11) The Board shall determine its own procedure for the conduct of its meetings, and the meetings of any of its committees.

## 9. Invited persons

The Board may, at any time and for any period of time, invite any person to attend any meeting of the Board or of its committees and take part in the deliberations of the Board or the committee, or to make a presentation before the Board or committee, but such person shall not be entitled to vote at that meeting.

## 10. Disclosure of interest

- (1) If any member is present at a meeting of the Board or of any committee of the Board at which any matter which is the subject of consideration is a matter in which that member or his immediate family member or his professional or business partner, is directly or indirectly interested, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and, unless the Board or the committee otherwise directs, that member shall not take part in any consideration or discussion of, or vote on, any question relating to the matter.
- (2) A disclosure of interest by a member shall be recorded in the minutes of the meeting at which it is made.
- (3) A member who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine of K1,000,000 and imprisonment for six months.

**11. Non-liability of members**

- (1) A member shall not be held personally liable for any act or omission done in good faith in the exercise of the functions or powers of the Board.
- (2) Where, in any proceedings, a question arises as to whether an act or omission was done in good faith, the burden of proving that the act or the omission was done in good faith shall lie with the person alleging that the act or the omission was done in good faith.

**12. Allowances and expenses of members**

- (1) A member shall be paid such allowances as the Board may determine, subject to approval by the Minister.
- (2) The Board may make provision for the reimbursement of any reasonable expenses incurred by a member in connexion with his duties as a member.

**13. Reporting and policy direction**

The Board shall submit an annual report to the Minister and shall keep the Minister fully informed on matters concerning the general conduct of the affairs of the Board.

**14. Delegation of powers by the Board**

- (1) The Board may, subject to subsection (4) and subject to such terms, conditions and restrictions as it may specify, delegate to any committee or to any employee of the Board some of its functions, powers or duties as conferred on the Board under this Act.
- (2) A delegation made under subsection (1), may be made to the holder of an office of the Board specifying the office but without naming the holder, and in every case, where a delegation is so made, every successive holder of the office in question and every person who occupies or performs the duties of that office, may, without any further authority, perform or exercise the delegated function, power or duty in accordance with the delegation made by the Board.
- (3) The delegation made under this section shall not prevent the Board from performing or exercising the delegated function, power or duty.
- (4) The Board shall not delegate the power to approve the annual estimates of the Fund or its supplementary estimates, annual balance sheet or any statement of accounts.

**Part III – Management of the Board****15. Executive Director and Deputy Executive Director of the Board**

- (1) There shall be an Executive Director of the Board who shall be appointed by the Board on such terms and conditions as the Board shall determine.
- (2) The office of the Executive Director shall be a public office.
- (3) The office of the Executive Director shall be held by a person with such qualifications and experience as the Board may determine.
- (4) The Executive Director shall hold office for a period of five years and may be eligible for re-appointment for one more term.
- (5) The Executive Director may, at any time resign his office by giving a three months written notice to the Chairperson.

- (6) The Board shall appoint a Deputy Executive Director on such terms and conditions as the Board may determine.
- (7) The Deputy Executive Director shall perform such functions and duties as may be assigned to him by the Executive Director from time to time.
- (8) The office of the Deputy Executive Director shall be a public office and be held by a person with such qualifications and experience as the Board may determine.
- (9) The Deputy Executive Director may—
  - (a) subject to [section 16](#), hold office for a period of five years and be eligible for appointment for another term; and
  - (b) qualify for appointment as Executive Director.

## **16. Termination of service of the Executive Director or Deputy Executive Director**

The Board may terminate the appointment of the Executive Director or the Deputy Executive Director on any of the following grounds—

- (a) conduct that brings the office of the Executive Director or the Deputy Executive Director into disrepute;
- (b) failure or inability to perform the duties of his office arising from infirmity of body or mind;
- (c) incompetence in the execution of the duties of the office of the Executive Director or Deputy Executive Director;
- (d) if the Executive Director or Deputy Executive Director is adjudged bankrupt; or
- (e) if the Executive Director or the Deputy Executive Director has been convicted of an offence involving moral turpitude or dishonesty.

## **17. Duties of the Executive Director**

- (1) The Executive Director shall be responsible for the day to day management of the Board and the administrative control of other employees of the Board, and perform such other duties as the Board may direct.
- (2) The Executive Director shall be the Secretary to the Board.

## **18. Appointment of other employees of the Board**

Subject to the provisions of this Act, the Board may appoint directors and such other employees of the Board as it considers necessary or desirable for the proper and efficient conduct of its business and activities, and, on such terms and conditions as the Board may determine.

## **19. Disciplinary authority**

- (1) The Board shall be the disciplinary authority in relation to employment matters of the Executive Director and other directors.
- (2) The Executive Director shall be the disciplinary authority, and the Board shall be the appellate authority in relation to employment matters of other employees of the Board.

## **Part IV – Establishment of the Higher Education Students' Loans and Grants Fund**

### **20. Establishment of the Fund**

- (1) There is hereby established a Higher Education Students' Loans and Grants Fund (hereinafter referred to as the "Fund") which shall be managed and administered by the Board.
- (2) The purpose of the Fund shall be to provide student loans and award student grants to eligible students for the purpose of pursuing academic programmes in accredited higher education at any accredited institution.

### **21. Revenue and expenditure of the Fund**

- (1) There shall be credited to the Fund—
  - (a) such sums of money as may be appropriated by Parliament for that purpose;
  - (b) sums of money which represent the repayment of the capital and interest of any student loan or any other loan made by the Government prior to the commencement of this Act;
  - (c) income from any investment made by the Board;
  - (d) sums of money borrowed by the Board; and
  - (e) gifts, donations and grants made to the Fund.
- (2) There shall be paid out of the Fund, such sums of money as may be approved by the Board, for the purpose of paying for expenses incurred in connexion with the administration of the Fund.

### **22. Annual estimates of the Fund**

- (1) The Executive Director shall, at least three months before the commencement of each financial year, prepare or cause to be prepared, for the approval of the Board, annual estimates of revenue and expenditure of the Fund for the following financial year.
- (2) The Board shall, before the commencement of each financial year, consider and approve, subject to any amendments as it may consider appropriate, the annual estimates of the Fund.
- (3) The annual estimates of the Fund shall contain provision for all the estimated expenditure of the following financial year and in particular, the annual estimates shall contain information relating to the following—
  - (a) the disbursement of student loans and student grants to loan beneficiaries and grant beneficiaries; and
  - (b) the payment of costs of materials, equipment and other charges in respect of services, and, if applicable, training and consultancy.
- (4) No expenditure of the Fund shall be incurred except in accordance with the provisions of the annual estimates or in accordance with the provisions of any supplementary estimates approved by the Board.
- (5) A copy of the annual estimates of the Fund and the supplementary estimates, if any, shall, immediately upon being approved by the Board, be submitted to the Minister.

### **23. Accounts and audit of the Fund**

- (1) The Board shall cause to be kept proper books of accounts for the Fund and shall, not later than six months after the end of each financial year, cause to be prepared—
  - (a) a statement of income and expenditure during such financial year; and

- (b) such other statements as may be required.
- (2) The Board shall submit the accounts of the Fund for auditing by auditors that the Board may appoint.
- (3) The Board shall submit to the Minister copies of the statements referred to in subsection (1), a copy of the auditor's report and a copy of a report on the activities of the Board during that financial year.

## **Part V – Granting of students loans, students grants, eligibility and obligation**

### **24. Eligibility for student loans or student grants**

A student shall be eligible for a student loan or student grant under this Act if the student—

- (a) is a Malawian and has been admitted to pursue, or is pursuing, an accredited higher education programme at an accredited institution; and
- (b) has no financial assistance from any other source to cover the item or items of cost for which the application is made.

### **25. Provision of student loans or student grants**

- (1) Subject to the provisions of this Act, the Board may provide a student loan or a student grant to any eligible student who is in need of, and has applied for, such student loan or student grant to enable the student meet all or any of the student's costs of higher education.
- (2) Applications for student loans or student grants shall be made by eligible students and submitted to the Board in the prescribed form.
- (3) The application shall, among other things, include the following information—
  - (a) name of the student;
  - (b) name, address and financial details of the student's parents or guardians; and
  - (c) reasons for the application.
- (4) A student may be awarded a student grant either based on his exceptional academic performance or the importance of the programme of study he has been admitted to, as may be determined by Government from time to time.
- (5) The Board shall issue an identification personal account number to every student who has been granted a student' loan or student grant.

### **26. Conditions for providing student loans or student grants**

- (1) The Board shall have the right to accept or reject an application for a student loan or a student grant.
- (2) Where an application for a student loan or student grant is accepted, the Board shall determine conditions for such loan or grant and, in the case of a student loan, shall require repayment in installments at such times, and within such period, as the Board may deem fit.
- (3) Where an application for a student loan or student grant is not accepted, the Board shall give reasons in writing for such decision.
- (4) The Board may, on request by a loan beneficiary or a grant beneficiary, vary—
  - (a) the condition upon which the student loan or the student grant was given; or
  - (b) the terms of the repayment in respect of the student' loan.

- (5) In providing a loan to any student, the Board shall require a guarantor to guarantee any loan granted to a student, in case of any default by the student in the repayment of the loan, any guarantor who has guaranteed any such loan shall be automatically and fully liable to pay the Board all or any outstanding loan together with interest accrued thereon owed to the Board by the student as shall be notified to the guarantor by the Board.

## 27. Liabilities and obligations of a loan beneficiary

- (1) It shall be the duty of every loan beneficiary under this Act to repay his debt to the Government through the Board.
- (2) A loan beneficiary shall, within two years upon successful or unsuccessful completion of the course for which the loan was granted, or upon earlier termination of such course for any reason or cause whatsoever, start the repayment of his student loan to the Board.
- (3) A loan beneficiary shall be liable to repay to the Board the total sum of money loaned—
- (a) calculated on the basis of the formula as prescribed on the application forms issued to him by the Board; or
  - (b) as may have been established by the Board as having been the sum of money personally received by the loan beneficiary or received through his bank account.
- (4) A loan beneficiary who pursues his higher education course at an accredited institution outside Mala#i, shall, upon his admission to the accredited institution, enter into an arrangement with the Board on the mode of repayment of the student loan.
- (5) A loan beneficiary who is employed, whether the employment is on contract or permanent terms, shall—
- (a) make arrangements with his employer for monthly deductions from his salary, of such amount, and within such a period as the Board may determine for remittance to the Board as repayment of a student loan taken;
  - (b) ensure that payment of the monthly deductions by the employer are remitted to the Board from the date such remittance is due and that all relevant documents bear the correct name of the loan beneficiary and his student loan number;
  - (c) inform the Board in writing of—
    - (i) the name, address and telephone numbers of his employer and of any subsequent employer or employers and the arrangements made with the employer in accordance with the provisions of subsection (4)(a) and subsection (4)(b); and
    - (ii) his address and any subsequent change of address until settlement or payment of the final installment of the loan, including interest, if any; and
  - (d) comply with any relevant regulations made under this Act.
- (6) A loan beneficiary who is self-employed in any trade, occupation or profession shall, within two years of engaging in such self-employment—
- (a) make monthly remittances to the Board of such amounts of money as the Board may determine;
  - (b) ensure that the remittance of such monthly amounts is made to the Board and that all relevant documents bear the correct name and address of the loan beneficiary and his student loan number;
  - (c) inform the Board of his current postal, physical, occupational and residential addresses and telephone numbers, if any, and any subsequent changes thereof; and
  - (d) comply with any relevant regulations made under this Act.

- (7) Subsection (5) shall apply, *mutatis mutandis*, to any loan beneficiary who is in the employment of a foreign government, an international organization, a foreign company, a foreign agency, a foreign association or any foreign institution or entity.
- (8) For purposes of subsection (6), the term—
  - (a) “foreign government” includes an embassy, high commission, or resident representative of a foreign government;
  - (b) “international organization” includes organizations within the United Nations Organization; and
  - (c) “foreign company”, “foreign agency”, “foreign association” or “foreign institution or entity” means any company, agency, association, institution or entity that is not incorporated or registered as such in Mala#i.

## 28. Failure to repay a student loan

A loan beneficiary who, without good cause, fails to repay his student loan, shall be liable to civil proceedings.

## 29. Responsibilities of an employer

It shall be the duty of an employer of any loan beneficiary to—

- (a) demand every employee to declare whether they have a student loan;
  - (b) notify the Board within thirty days of the employment of a loan beneficiary;
  - (c) ensure that the employee arranges with the employer for the monthly deduction and remittance of repayment installments to the Board in accordance with this Act;
  - (d) ensure that monthly deductions are made from the salary of a loan beneficiary and remitted to the Board in accordance with the provisions of this Act; and
  - (e) when so required by the Board, inform the Board, in writing, of the position, rank, or salary and changes if any, of an employee who is a loan beneficiary.
- (2) An employer shall pay, in the prescribed manner, every deduction made from a loan beneficiary's salary to the Board within fifteen days, after the end of each month.

## 30. Penalty for failure to notify the Board and for delayed remittance

- (1) An employer who fails, without reasonable cause, to notify the Board that he has in his employment, a loan beneficiary after being made aware of such a fact, within the period specified under [section 29](#), commits an offence and shall, on conviction, be liable to a fine of K1,000,000.
- (2) An employer who fails to deduct, or after having deducted a loan repayment from a loan beneficiary, fails to pay such deduction to the Board within the period specified under [section 29](#), shall be liable to pay a sum equal to ten percent of the total amount of the monthly repayment for each month or part of the month that the repayment remains unpaid.

## 31. Obligations of a guarantor

- (1) A person who acts as a guarantor of a loan beneficiary shall, if requested to do so by the Board—
  - (a) inform the Board of the address and occupation of the loan beneficiary and the name, postal and physical address of the employer of the loan beneficiary;
  - (b) ensure that payments in respect of the loan for which the loan beneficiary is liable to repay are duly made in accordance with this Act; and

- (c) give any relevant information and give or do, any other thing required to be given or done by the loan beneficiary under this Act.
- (2) A person who fails to comply with subsection (1), commits an offence and shall, on conviction, be liable to a fine of K1,000,000 and imprisonment for six months

### **32. Waiver or deferment of student loan repayment**

- (1) The Board may waive or defer a student loan repayment if—
  - (a) the loan beneficiary is dead; or
  - (b) the cost to be incurred in the recovery of the loan is more than the amount of the loan to be recovered.
- (2) The Board may, on conditions determined by the Board, defer a student loan repayment if—
  - (a) the loan beneficiary is experiencing exceptional financial hardship; or
  - (b) any other ground that the Board may determine.
- (3) The Minister may, by notice published in the *Gazette*, exempt any class of persons from all or any of the provisions of this Act, where in his opinion, it is in the public interest to do so.

## **Part VI – Financial provisions**

### **33. Annual estimates**

- (1) The Board shall at least three months before the commencement of each financial year submit to the Minister an estimate of its income and expenditure for the following financial year.
- (2) The annual estimates shall make provision for all the estimates of expenditure of the Board for the financial year and shall provide for—
  - (a) the cost of administration of the Board including payment of salaries, allowances, travel and other charges payable to employees of the Board;
  - (b) the payment of allowances, fees and expenses in respect of members of the Board;
  - (c) the improvement or maintenance of any building or other immovable properties of the Board;
  - (d) the maintenance and replacement of furniture and equipment of the Board; and
  - (e) the creation of such reserve fund to meet future contingent liabilities as the Board may think fit.

### **34. Accounts and audit**

- (1) The Board shall, not later than three months after the end of each financial year, cause to be prepared—
  - (a) a statement of the assets and liabilities of the Board on the last day of that financial year;
  - (b) a statement on financial activities, income and expenditure during the financial year; and
  - (c) such other statements of accounts as may be necessary to fully disclose the undertaking, liabilities and discharge of the functions of the Board.
- (2) The Board shall submit the accounts of the Board for auditing by auditors that the Board may appoint.

- (3) The Board shall submit to the Minister copies of the statements referred to subsection (1), a copy of the auditor's report and a copy on the activities of the Board during that financial year.

## Part VII – Miscellaneous provisions

### 35. Laying of reports before the National Assembly

The Minister shall lay before the National Assembly, as soon as may be practicable, and in any case not later than six months after the end of each financial year, the following—

- (a) a copy of the statement of income and expenditure of the Fund;
- (b) a copy of the auditor's report of the Fund; and
- (c) a copy of the Board's annual report.

### 36. Oath of secrecy

A member and any employee of the Board or a person invited under [section 9](#), shall, upon assuming office or, in the case of a person invited under [section 9](#), before attending any meeting, take an oath of secrecy in the form set out in the Schedule.

*[Schedule]*

### 37. Confidentiality

- (1) A person shall not directly or indirectly reveal any matter related to the Board to any person, without the authority of the Board, or without the authority of a person authorized by the Board to give such authority.
- (2) A person who fails to comply with subsection (1), commits an offence and shall, on conviction, be liable to a fine of K1,000,000 and imprisonment for six months.

### 38. Regulations

- (1) The Minister may, on recommendation of the Board, make regulations for the better carrying into effect of this Act.
- (2) Without prejudice to the generality of subsection (1), the regulations may—
  - (a) prescribe the conditions and terms on which any specified services or categories of services within the scope of the powers, functions and duties of the Board, shall be provided to applicants of student loans, to loan beneficiaries, grant beneficiaries and other relevant persons;
  - (b) prescribe, where applicable, fees, rates and other charges for or in connexion with the provision by the Board of any facilities or services;
  - (c) prescribe various procedural matters and forms to be used under this Act;
  - (d) provide for the proper management, control and administration of the Board;
  - (e) prescribe procedures for recovery of student loans;
  - (g) prescribe anything which may be required to be prescribed under this Act; and

*[Please note: numbering as in original.]*

  - (h) provide for any matter which, in the opinion of the Board, is necessary for the efficient performance of the functions of the Board.

## Schedule

### Oath of secrecy

I, \_\_\_\_\_ being a member/having been employed in the service, of the Board, do hereby swear/affirm that I will freely and without fear or favor, affection or ill will, discharge the functions of a member/an employee, of the Board, and that I will not directly or indirectly reveal any matters related to such functions to any unauthorized person or otherwise than in the course of my duty.

Sworn/Declared at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Before me:

\_\_\_\_\_

Commissioner for oaths