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2nd Session Third Parliament Trinidad and Tobago  
21 Elizabeth II

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TRINIDAD AND TOBAGO

**Act No. 2 of 1973**

[L.S.]

AN ACT to amend the British West Indian Airways Limited  
(Guarantee of Loans) Act, 1964.

*[Assented to 18th January, 1973]*

BE IT ENACTED by the Queen's Most Excellent Majesty, Enactment  
by and with the advice and consent of the Senate and  
House of Representatives of Trinidad and Tobago, and  
by the authority of the same, as follows:—

1. This Act may be cited as the British West Indian Short title  
Airways Limited (Guarantee of Loans) (Amendment)  
Act, 1973.

Act No. 4 of  
1964 amended

2. The British West Indian Airways Limited (Guarantee of Loans) Act, 1964, is amended—

(a) by inserting in section 2, in the appropriate alphabetical order, the following—

““borrowing” includes the obtaining of any credit or the undertaking to pay any debt or to discharge any pecuniary obligations;

“lending agency” means an international financial organisation, or any bank, insurance company or other source of financing.”;

(b) by repealing sections 3, 4 and 5 and replacing them respectively as follows:—

“Govern-  
ment  
author-  
ised to  
guaran-  
tee re-  
payment  
of loan

3. (1) Subject to this Act the Govern-  
ment may in such manner and on such  
terms and subject to such conditions as  
may be agreed between it and a lending  
agency—

(a) guarantee the discharge by the  
Company of its obligations  
under any agreement which may  
be entered into by the Company  
with a lending agency in respect  
of any borrowing by the Com-  
pany that is authorised by the  
Government;

(b) undertake such other obligation  
as may be agreed between the  
Government and a lending  
agency in relation to or pursuant  
to any such agreement.

(2) A guarantee or undertaking  
given under this section shall be given in  
writing in the name of Trinidad and  
Tobago and any guarantee or undertaking  
given under this section may be signed  
on behalf of Trinidad and Tobago by the  
Minister or by any person authorised in  
writing by the Minister in that behalf.

(3) Any such guarantee or undertaking shall be in such form and contain such terms, conditions and stipulations as the Minister may determine.

(4) The Minister may take any action or issue any order determining any matter relating to any agreement or agreements for guaranteeing the repayment by the Company of any sum or sums not specifically provided for herein together with the interest thereon.

Limit on  
amounts  
of guar-  
antee

4. (1) Subject to this section the aggregate amount of all borrowings by the Company that are guaranteed by the Government under this Act shall not exceed the sum of seventy-five million dollars (without taking into account any amount in respect of interest, commissions and other expenses secured by the guarantees), whether the borrowings so guaranteed are expressed in any foreign currency or not, or such greater sum as may from time to time be specified by resolution of the Senate and the House of Representatives.

(2) For the purpose of subsection (1) before any further guarantee is entered into or any undertaking is assumed—

(a) the amount of all borrowings by the Company secured by guarantees by the Government shall be computed on the date of any such further guarantee in accordance with subsection (1) and the aggregate amount of all such borrowings in foreign currency shall be computed so as to take into account the prevailing rates of exchange on the date of such further guarantee;

- (b) the Minister shall certify in each such new guarantee that the aggregate amount of all borrowings guaranteed by the Government under this Act does not exceed the limits imposed for the time being by or under subsection (1); and
- (c) such certificate shall be conclusive evidence of the facts stated therein.

Minister  
may ex-  
empt  
borrow-  
ings from  
taxes, etc.

5. The Minister may by Order published in the *Gazette* exempt from any taxes, duties, charges and assessments now or hereafter imposed by the Government and exempt from attachment, execution or seizure by the Government, the principal of and interest on any borrowings referred to in section 4(1) which are borrowed externally.”;

- (c) by substituting for the words “the House” occurring in line three of section 6(2) the words “the Senate and the House of Representatives”;
- (d) by repealing and replacing section 7 as follows:—

“Powers  
exercis-  
able by  
Minister  
in event  
of pros-  
pect of  
Com-  
pany’s  
default

7. Where in the opinion of the Minister there is reasonable cause to believe—

- (a) that the Company is likely to fail or be unable to discharge any of its obligations under any agreement concluded by it with a lending agency in respect of any borrowing; and
- (b) that the Government is or may become liable under any guarantee or other undertaking given by it in respect of such obligation,

the Minister may notwithstanding any enactment, rule of law or agreement to the contrary from time to time—

- (i) by instrument in writing (notice of which shall be published in the *Gazette*) appoint for such period as is specified in the instrument, a Manager of the Company, and the powers of management shall thereupon vest in the Manager for the specified period to the exclusion of the Board of Directors of the Company or of any other person or body of persons; and
- (ii) give, or authorise any other person to give, such directions in writing to the Manager as may be necessary or desirable in order to ensure that such arrangements are made by the Company as will enable it to discharge its obligations in respect of all its borrowings guaranteed by the Government and to satisfy any other liabilities under this Act, and the Company shall accept such appointment of a Manager and be bound by all lawful acts of the Manager.

(2) Nothing in subsection (1) shall be read or construed so as to treat a Manager appointed by instrument under subparagraph (i) of subsection (1) as the agent or servant of the Government or of any person other than the Company.”;

(e) by inserting immediately after section 7, the following—

“Consolidated Fund charged with repayment of loan by Government

8. (1) Where any sum becomes due and payable by the Government pursuant to a guarantee or undertaking given by the Government under this Act, that sum shall be charged on the Consolidated

Fund and the Minister shall direct payment to issue out of the Consolidated Fund.

(2) Where any sum is paid out of the Consolidated Fund in respect of any liability incurred by the Government under a guarantee or other undertaking given in exercise of the powers conferred by this Act in respect of any borrowing by the Company, the Company shall repay such sum (together with interest thereon at such rate as the Minister may prescribe) to the Consolidated Fund in such manner and at such time as the Minister may direct.”;

(f) by renumbering section 8, as section 9;

(g) by adding immediately after section 9, as renumbered, the following new sections—

“Minister  
may  
exempt  
obliga-  
tions  
from  
Stamp  
Duty

10. Any obligation by the Government or the Company under this Act including any security therefor whether principal, auxiliary, collateral or supplemental which the Government guarantees or undertakes may be exempted in whole or in part from the provisions of the Stamp Duty Ordinance by Order of the Minister published in the *Gazette*.

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No. 4

Regula-  
tions

11. The Minister may make regulations for the purpose of giving effect to the provisions of this Act, and in particular for prescribing anything by this Act required to be prescribed.”.

Passed in the House of Representatives this 9th day of January, 1973.

J. E. CARTER  
*Acting Clerk of the House*

Passed in the Senate this 12th day of January, 1973.

R. L. GRIFFITH  
*Acting Clerk of the Senate*