

# **General System Governing the Issue and Management of Public debt**

## **Law No. 7/98 of 3 February**

(changed by Law n. 87-B/98, of 31 December, article 81<sup>st</sup>)

Under Articles 161 (c) and (h) and 166 No. 3 of the Constitution, the Assembly of the Republic (Portuguese Parliament) decrees the following:

### **CHAPTER I General provisions**

#### Article 1 Purpose

This law lays down the general system governing the issue and management of public debt.

#### Article 2 Principles

1 - The recourse to direct public indebtedness shall conform to the borrowing requirements derived from the performance of the priority tasks of the State, such as defined in the Constitution of the Portuguese Republic, and safeguard the trend balance of government accounts in the medium run.

2 - The management of direct public debt shall be guided by principles of discipline and efficiency, ensuring the availability of the financing required by each budgetary period, in line with the following objectives:

- a) Minimisation of direct and indirect costs from a long-term perspective;
- b) Guarantee of an even distribution of costs by the several annual budgets;
- c) Prevention of an excessively concentrated time-profile of repayments;
- d) Non-exposure to exaggerated risks;
- e) Promotion of a smooth and effective operation of financial markets.

#### Article 3 Definitions

For the purpose of this law:

- a) "Floating public debt" means public debt contracted to be fully repaid until the end of the budgetary period in which it was incurred;
- b) "Funded public debt" means debt contracted to be fully repaid in a budgetary period subsequent to the period in which it was incurred;
- c) "Public debt in domestic currency" means public debt denominated in currency which is legal tender in Portugal;
- d) "Public debt in foreign currency" means public debt denominated in currency which is not legal tender in Portugal.

## **CHAPTER II**

### **Issue of public debt**

#### Article 4 General financing conditions

1 - The Assembly of the Republic shall establish, by means of a law, for each budgetary period, the general conditions governing State financing and public debt management, namely the ceiling on the increase in authorised net indebtedness and the longest maturity of the loans to be floated.

2 - The law envisaged in the foregoing number may establish the maximum amount to which certain types of public debt may be subject, namely debt denominated in foreign currency, fixed-rate debt and variable-rate debt.

#### Article 5 Conditions of the operations

1 - By means of a Resolution, the Cabinet shall determine, subject to the general conditions established according to the foregoing article, the supplementary conditions governing the negotiation, contracting and issue of loans by the Instituto de Gestão do Crédito Público (Public Debt Management Institute), in the name and on behalf of the State, as well as the carrying out by the said Institute, of all the financial operations of direct public debt management.

2 - Without prejudice to the provisions of the foregoing number, the Government may, through the Finance Minister, who has the authority to delegate, establish at any moment specific guidelines to be obeyed by the Instituto de Gestão do Crédito Público in the management of direct public debt and of State financing.

#### Article 6 Specific conditions

1 - The specific conditions of the loans and financial operations of direct public debt management shall be established by the Instituto de Gestão do Crédito Público, in compliance with the requirements laid down in Articles 4 and 5 above.

2 - On establishing the specific conditions envisaged in the foregoing number, the Instituto de Gestão do Crédito Público shall further take into consideration the current conditions of financial markets as well as reasonable expectations as to their development.

#### Article 7

##### Issue of public debt pending approval or publication of the State Budget

1 - If the State Budget does not start to be implemented in the beginning of the economic year for which it is intended, for any reason, namely nonvoting, disapproval or non-publication, the Government may, by Resolution, authorise the issue and contracting of funded public debt up to an amount equivalent to total repayments falling due in the meantime plus 25% of the maximum amount of the increase in net indebtedness authorised in the preceding budgetary period.

2 - The public loans floated under the interim system provided for in this Article shall become an integral part, with ratifying effects, of the State Budget for the relevant period.

#### Article 8

##### Supplementary period for public debt issue

Direct public indebtedness authorised in each budgetary period may be implemented in the subsequent period up to the date mentioned each year in the decree-law providing for budgetary performance.

#### Article 9

##### Certification of the debt legality

1 - At the request of the borrowers, it falls on the Attorney General of the Republic to issue legal opinions for juridical certification of the legality of public debt issue.

2 - The provision of the foregoing number does not prevent borrowers from obtaining juridical certification of the legality of public debt issue through recourse to private consultants.

#### Article 10

##### Forms of public debt

1 - Public debt may take the following forms:

- a) Agreement;
- b) Treasury bonds;
- c) Treasury bills;
- d) Savings certificates;
- e) Public debt special certificates;
- f) Promissory notes;
- g) Other debt instruments.

2 - Direct public debt may be represented by registered or bearer securities or take the form of a mere book entry.

3 - Without prejudice to the provisions of this law, the specific legislation governing public debt instruments listed in number 1 above remains in force.

4 - Until their extinction, the following forms of direct public debt shall still be considered:

- a) Perpetual loan certificates;
- b) Life annuity certificates.

5 - By Cabinet Resolution, on a proposal from the Finance Minister, other forms of representing public debt may be established.

Article 11  
Public debt guarantees

Interest payments and or the repayment of principal of the loans which form part of direct public debt are ensured by non-earmarked total revenue entered in the State Budget.

**CHAPTER III**  
**Public debt management**

Article 12  
Public debt management measures

1 - Aiming at an efficient management of direct public debt and at the improvement of the final conditions of borrowings, the Government, through the Finance Minister, may be authorised by the Assembly of the Republic to carry out the following public debt management operations:

- a) Replacement among the issue of the several types of loans;
- b) Increase in appropriations to repayment of principal;
- c) Early repayment, in full or in part, of loans already contracted;
- d) Conversion of existing loans, under the terms and conditions of the issue or agreement, or by arrangement with holders, whenever the current conditions of financial markets thus advise.

2 - Also with a view to the achievement of the objectives mentioned in the foregoing number, the Instituto de Gestão do Crédito Público may carry out the financial operations considered appropriate for the purpose, namely operations in public debt liabilities involving financial derivatives such as interest rate or currency swaps, and swaps of other financial conditions as well as forward operations, futures and options.

3 - The Instituto de Gestão do Crédito Público is further responsible for providing for the issue of new securities representing public debt in replacement of securities destroyed, mutilated or misplaced, according to the applicable rules of procedure.

Article 13  
Public debt statute of limitations

1 - Claims regarding interest payments and perpetual loans shall be barred after a period of five years from the date when they fall due.

2 - Claims regarding loan principal and life annuities shall be barred, and considered abandoned in favour of the Public Debt Settlement Fund, after a period of 10 years from the date either of maturity or of the first interest or annuity payment subsequent to the last interest collected or annuity received, whichever date takes place first.

3 - The periods envisaged in the foregoing numbers are subject to the rules on the suspension or interruption of the statute of limitations laid down by civil law.

#### Article 14

##### Reporting to the Assembly of the Republic

1 - The Government, through the Finance Minister, shall report to the Assembly of the Republic every quarter, on the financing obtained and on the specific conditions of the loan agreements concluded according to the provisions of this law.

2 - Without prejudice to the provision of the foregoing number, the Assembly of the Republic may at any moment summon the Chairman of the Instituto de Gestão do Crédito Público for a hearing on loans contracted and on financial operations of direct public debt management carried out according to the provisions of this law.

### **CHAPTER IV**

#### **Final provisions**

#### Article 15

##### Choice of law

Disputes arising out of direct public debt operations shall be solved by courts of justice and the relevant suits shall be filed with the Lisbon district court, unless they are contractually subject to the jurisdiction of a foreign court and law.

#### Article 16

##### Waiver of immunity

In the event of direct public debt operations that, by virtue of the relevant contracts, are subject to foreign law and courts, the Instituto de Gestão do Crédito Público, on behalf of the Portuguese Republic, may agree to clauses waiving immunity on grounds of sovereignty.

#### Article 17

##### Scope of application

The principles of this law are applicable to direct public debt of all general government bodies, without prejudice to the special provisions of the Autonomous Regions Finance Act and of Local Government Finance Act.

#### Article 18

##### Entry into force

This law enters into force on the first day of the month following its publication.

Article 19  
Legislation repealed

1 - As of the date of entry into force of this law, the legislation on the subject-matters regulated therein is repealed, namely Law No. 1933 of 13 February 1936, Decree No. 42900 of 3 April 1960, Articles 6,13 and 15 through 22 of Decree No. 43453 of 30 December 1960, Decree-Law No. 170/86 of 30 June and Law No.12/90 of 7 April.

2 - References to repealed provisions are considered as made to the corresponding rules of this law.

Article 20  
Revision of the legal systems governing  
specific forms of public debt

The Government shall provide for the revision of the legal systems governing specific forms of public debt referred to in Article 11 No. 3.

(This English translation of the Law No. 7/98 of 3 February has been prepared solely for reference purposes and shall not have any binding force.)