

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act XVII of 2001¹
THE WEST BENGAL CEILING ON GOVERNMENT
GUARANTEES ACT, 2001.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*,
Extraordinary, of the 31st July, 2001.]

An Act to provide for ceiling on Government Guarantees and other matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for ceiling on Government Guarantees issued on behalf of the Government departments, public sector undertakings, local authorities, statutory boards, corporations and co-operative institutions and for promoting fiscal discipline of the State;

It is hereby enacted in the Fifty-second Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title
and
commence-
ment.

1. (1) This Act may be called the West Bengal Ceiling on Government Guarantees Act, 2001.

(2) It shall come into ²force on such date as the State Government may, by notification, appoint.

Definitions.

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

- (a) “Government” means the Government of West Bengal;
- (b) “Government Guarantee” includes the guarantee given by the State Government on behalf of the Government departments, public sector undertakings, local authorities, statutory boards, corporations and co-operative institutions;
- (c) “notification” means a notification published in the *Official Gazette*;

¹For proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 30th July, 2001.

²This Act came into force w.e.f. 1.8.2001 vide the Finance (Taxation) Department Notification No. 2605-F.T., dt. 1.8.2001, published in the *Kolkata Gazette, Extraordinary*, Part I, dt. 1.8.2001.

(Sections 3-6.)

- (d) "Performance Guarantee" includes the documents such as letters of comfort, paper purchase agreement, state support agreement, concession agreement for infrastructure project and other agreements, guaranteed in certain performance on behalf of Government departments, public sector undertakings, local authorities, statutory boards, corporations and co-operative institutions.

Ceiling on
Government
Guarantees.

3. The total outstanding Government Guarantees as on the first day of April of any year shall not exceed ninety *per cent* of the State revenue receipts of the second preceding year of such year as they stood in the books of the Accountant General of West Bengal:

Provided that the ceiling on the Government Guarantee shall not apply for any loan raised by the West Bengal Infrastructure Development Finance Corporation Limited under the guarantee given by the Government and fully availed of by the Government itself for funding different infrastructure projects and for repayment of which there is specific provision in the budget of the State.

Prohibition.

4. Notwithstanding anything contained in any other law for the time being in force,—

- (a) no Government Guarantee shall be given in respect of a loan of any private individual, institution or company;
- (b) no Government Guarantee shall be extended to the co-operative institutions unless the share capital contribution from the non-Government sources is not less than ten *per cent* of the total equity proposed.

Guarantee
commission.

5. (1) The Government shall charge a minimum of one *per cent* as guarantee commission which shall not be waived under any circumstances.

(2) Depending on the default risk of the project, the Government may, by notification, specify commission at an enhanced rate.

Explanation.—For the purposes of this section, 'default risk' means the probability of default by the borrower on whose behalf the Government Guarantee is given, depending on the amount borrowed, the type of industry and the economic situations.

Performance
Guarantee.

6. (1) In the interest of development of infrastructure project the Government may continue to give Performance Guarantee to all such sectors.

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(Section 6.)

(2) The Government shall lay before the Legislative Assembly of the State a comprehensive report on the liabilities (in rupees) that the State may incur in future, if the State fails to meet the contractual obligation stated in the Performance Guarantee.

(3) The report referred to in sub-section (2) shall be laid within six months of the date of giving Performance Guarantee:

Provided that if the Legislative Assembly of the State is not in session or is not sitting on the date on which the said period of six months expires, the said period of six months shall be deemed to expire on the first day on which the Legislative Assembly first sits after the aforesaid date.

Statement of Objects and Reasons on the West Bengal Ceiling on Government Guarantees Bill, 2001 (Bill No. 21 of 2001).

STATEMENT OF OBJECTS AND REASONS.

A Technical Committee of State Finance Secretaries was constituted by the Reserve Bank of India to examine the various aspects of Guarantees given by the State Governments. The said Technical Committee has recommended to fix limit on Government Guarantees. Hence, in order to implement the recommendations of the said Technical Committee, it is considered necessary to bring out legislation to provide for limits on Government Guarantees issued on behalf of the Government departments, public sector undertakings, local authorities, statutory boards, corporations and co-operative institutions for promoting fiscal discipline of the State.

2. The Bill has been framed with the above objects in view.

KOLKATA,
The 26th June, 2001.

ASIM KUMAR DASGUPTA,
Member-in-charge.