

BILLS SUPPLEMENT

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Non Performing Assets Recovery Trust Act
Bill No. 36 (Repeal) Bill **2024**

**THE NONPERFORMING ASSETS RECOVERY TRUST ACT
(REPEAL) BILL, 2024**

MEMORANDUM**1. Policy and principles of the Bill**

The policy behind the Bill is to give effect to the Government Policy for Rationalisation of Government Agencies and Public Expenditure (RAPEX) which was adopted by the Cabinet on 22nd February, 2021.

2. Defects in existing law

The Constitution establishes a definite number of Government agencies, including constitutional commissions, authorities, boards, local councils and other statutory bodies. These were established to perform certain specified constitutional functions. Over the years, however, there has been a proliferation of agencies established by Acts of Parliament, Executive Orders and administrative arrangements. Whereas most of the agencies are necessary due to the critical nature of the functions they perform, Government has established that a certain limited number of agencies were established without due consideration to the aspects of institutional harmony, functional duplications, overlaps and affordability. Government has also established that some agencies have served the purpose for which they were established. The mandate of a few other agencies has been overtaken by events. Such agencies need to be rationalised.

More importantly, the proliferation of agencies has created mandate overlaps and jurisdictional ambiguities among the agencies. Additionally, the high

cost of administering the agencies has drained the national treasury at the expense of effective service delivery. This has overstretched the capacity of Government to sustain them. Government has also established that the generous salary structures of the agencies has created salary disparities between employees of the agencies and public officers in the traditional civil service leading to demotivation of human resources in the mainstream public service.

3. Remedies proposed in the Bill

The intention of the Bill is to repeal the Nonperforming Assets Recovery Trust Act, Cap. 95 to enable the mainstreaming of the functions of the Nonperforming Assets Recovery Trust into the Ministry responsible for nonperforming assets, thereby, relieving the Government of the financial drain on its resources and the burden of wasteful administration and expenditure.

4. Provisions of the Bill

The Bill has 10 clauses. Clause 2 of the Bill provides for the objectives of the Bill, which is to rationalise the Non-performing Assets Recovery Trust. Clause 3 of the Bill provides for the purpose of repealing of the Nonperforming Assets Recovery Trust Act, Cap. 95, which is to abolish the Trust, the Board of Trustees and the Sinking Fund and mainstream the functions of the Nonperforming Assets Recovery Trust into the Ministry responsible for nonperforming assets. Clause 4 seeks to repeal the Nonperforming Assets Recovery Trust Act, Cap. 95. Clause 5 dissolves the Trust, the Board of Trustees and the Sinking Fund. Clause 6 deals with the transfer of assets and liabilities of Non-performing Assets Recovery Trust to Government. Clause 7 deals with pending cases. Clause 8 deals with cases pending in the Nonperforming Assets Recovery Tribunal. Clause 9 deals with the enforcement of judgments of the Nonperforming Assets Recovery Tribunal.

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(REPEAL) BILL, 2024**

ARRANGEMENT OF CLAUSES

Clause

1. Interpretation
2. Objectives
3. Purpose of repeal of Cap. 95
4. Repeal of Cap. 95
5. Trust, Board and Sinking Fund to cease to exist
6. Transfer of assets and liabilities of Trust to Government
7. Pending cases
8. Cases pending in Tribunal
9. Enforcement of judgments of Tribunal
10. Savings provisions for Cap. 95

A Bill for an Act

ENTITLED

**THE NONPERFORMING ASSETS RECOVERY TRUST ACT
(REPEAL) ACT, 2024**

An Act to dissolve the Trust, the Board of Trustees and the Sinking Fund; to mainstream the functions of the Nonperforming Assets Recovery Trust into the Ministry responsible for nonperforming assets in order to give effect to the Government Policy on Rationalisation of Government Agencies and Public Expenditure, and for related purposes.

BE IT ENACTED by Parliament as follows:

1. Interpretation

In this Act, unless the context otherwise requires—

“Act” means the Nonperforming Assets Recovery Trust Act, Cap. 95;

“agency” means a body established by an Act of Parliament and includes an authority;

“commission” means a body established by the Constitution;

“Ministry” means the Ministry responsible for finance;

“Minister” means the Minister responsible for finance;

“Tribunal” means the Nonperforming Assets Recovery Tribunal;

“Trust” means the Nonperforming Assets Recovery Trust established under section 2 of the Act.

2. Objectives

(1) The main objective of this Act is to give effect to the Government Policy for Rationalisation of Government Agencies and Public Expenditure adopted by the Cabinet on 22nd February, 2021 and contained in Cabinet Minute No. 43(CT 2021).

(2) Without prejudice to the general effect of subsection (1), the following objectives shall be deemed to fall under the objective specified in that subsection—

- (a) the merging, mainstreaming and rationalisation of agencies, commissions, authorities and public expenditure thereby, *inter alia*, relieving the Government of the financial drain on its resources and the burden of wasteful administration and expenditure;
- (b) the facilitation of efficient and effective service delivery by clearly delineating the mandates and functions of government agencies and departments and thereby avoiding duplication of mandates and functions;
- (c) the promotion of coordinated administrative arrangements, policies and procedures for—
 - (i) ensuring the efficient and successful management, financial accounting and budgetary discipline of government agencies and departments;

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- (ii) enabling the Government to play its proper role more effectively; and
- (iii) enforcing accountability; and
- (d) the restructuring and re-organisation of agencies and departments of Government by eliminating bloated structures and functional ambiguities in Government agencies and departments.

3. Purpose of repeal of Cap. 95

The purpose of repealing Cap. 95 is—

- (a) to abolish the Trust, the Board of Trustees and the Sinking Fund; and
- (b) to mainstream the functions of the Nonperforming Assets Recovery Trust into the Ministry.

4. Repeal of Cap. 95

(1) The Nonperforming Assets Recovery Trust Act, Cap. 95 is repealed.

(2) This section shall be deemed to have come into force on the 9th day of October, 2007.

5. Trust, Board and Sinking Fund to cease to exist

The following entities existing under the Act are dissolved—

- (a) the Trust;
- (b) the Board of Trustees; and
- (c) the Sinking Fund.

6. Transfer of assets and liabilities of Trust to Government

(1) All property, assets, interest and rights of the Trust, including monies in the Sinking Fund, are transferred to the Government under the Ministry.

(2) All obligations and liabilities of the Trust are transferred to the Government.

7. Pending cases

(1) All cases commenced on behalf of the Trust in any court or tribunal and pending at the commencement of this Act may be continued and concluded on behalf of the Government by the Attorney General or his or her legal representative.

(2) All cases subsisting against the Trust at the commencement of this Act in any court or tribunal shall subsist against the Attorney General.

8. Cases pending in Nonperforming Assets Recovery Tribunal

(1) Notwithstanding the repeal of the Act, the Tribunal shall, in respect of cases pending before it at the commencement of this Act, continue in existence until the conclusion of those cases and the Tribunal shall then cease to exist.

(2) The Tribunal shall operate expeditiously under this section and shall, in any case, as far as practicable, complete action on the pending cases not later than twelve months after the commencement of this Act or such further date as the Minister may, by statutory instrument, with the approval of Cabinet appoint.

(3) Cases before the Tribunal at the commencement of this Act, the hearing of which has not been commenced by the Tribunal, shall be transferred to the High Court and shall be proceeded with by the High Court, subject to the written directions of the Chief Justice.

9. Enforcement of judgments of Tribunal

For the avoidance of doubt, judgments of the Tribunal shall be enforceable in the same manner as before the commencement of this Act and appeals from the Tribunal may be proceeded with in the same manner as before.

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10. Savings provisions for Cap. 95

(1) The members and staff of the Tribunal shall be paid their terminal benefits in accordance with the terms and conditions of their service.

(2) Compensation is not payable to any member of the Tribunal for loss of office resulting from the dissolution of the Tribunal.

(3) The staff of the Tribunal may be redeployed to serve in the public service, subject to availability of positions.