

The Local Authorities Loans Act, 1914

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The Local Authorities Loans Act, 1914

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1840.

[28th February, 1914.]An Act to consolidate and amend the law relating to the grant of loans to Local Authorities.WHEREAS it is expedient to consolidate and amend the law relating to the borrowing powers of local authorities; It is hereby enacted as follows:-

1. Short title and extent.

(1)This Act may be called the Local Authorities Loans Act,: 1914.(2)[It extends to the whole of India except [the territories which, immediately before the 1st November, 1956, were comprised in Part B States.] [Substituted for sub-section (2) by A.L.O. 1950.]]

MaharashtraIn its application to the State of Maharashtra in sub-section (2) of section 1, after the words and letters comprised in Part B States, add as under :-"other than the Hyderabad area of the State of Maharashtra". - Mah. Act 31 of 1975, section 3 (not yet enforced).

2. Definitions.

- In this Act, "local authority" means any person legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area;"funds", used with reference to any local authority, includes any local or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority;"prescribed" means prescribed by rules made under this Act; and"work" includes a survey, whether incidental to any other work or not.["The Government" or "the appropriate Government"

means, in relation to cantonment authorities and in relation to port authorities in major ports, the Central Government, and in relation to other local authorities, the State Government.] [Inserted by the A.O. 1937]

3. Borrowing powers of local authorities.

(1) A local authority may, subject to the prescribed conditions, borrow on the security of its funds or any portion thereof for any of the following purposes, namely:-(i) the carrying out of any works which it is legally authorized to carry out. (ii) the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity, (iii) the prevention of the outbreak or spread of any dangerous epidemic disease, (iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii), (v) the repayment of money previously borrowed in accordance with law: Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force: [Provided further that, in the case of loans other than loans made by the [appropriate Government] [[Inserted by the Devolution Act, 1920 (38 of 1920), Section 2 and Sch. I.], no amount exceeding twenty-five lakhs of rupees shall be borrowed unless the terms, including the date of flotation, of such loan have been approved by the [appropriate Government] [Substituted for Governor-General in Council, by A.O. 1937]] (2) Nothing in this section shall be deemed to authorize any local authority-(a) to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorized to apply its funds, or (b) to borrow money by means of the issue of bills or promissory notes payable within any period not exceeding twelve months.

Himachal Pradesh : In its application to the State of Himachal Pradesh in sub-section (1) of section 3, for ":" occurring at the end of clause (v), substitute ", " and after clause (v) so amended add as under: "(vi) any other purpose which the State Government may declare to be a suitable one for which loans may be taken by Local Authorities generally or by a particular Local Authority". -H. P. Act 4 of 1974, section 2 (2-2-1974). After sub-section (2) of section 3, add as under : "(3) A local authority may, borrow a loan from other loaning institutions viz. the Life Insurance Corporation of India and the Housing and Urban Development Corporation etc., for the construction of buildings and sale thereof. For this purpose, the local authority may also mortgage its properties with the loaning institutions with the prior approval of the State Government". -H. P. Act 35 of 1976, section 2 (29-9-1976). Madhya Pradesh (Mahakoshal Region) : In its application to the State of Madhya Pradesh, in sub-section (1) of section 3 after clause (v), the following clauses shall be inserted, namely : "(vi) the meeting of its establishment charges, in case of temporary unforeseen financial difficulty; (vii) any exceptional expenditure of an urgent and unforeseen character not already provided for in this section." -C. P. Act 1 of 1922, section 2 (1-3-1923). Maharashtra : In its application to the State of Maharashtra, in sub-section (1) of section 3, after clause (v), insert clauses (vi) and (vii), namely :

"(vi) the meeting of its establishment charges, in case of temporary unforeseen financial difficulty, (vii) any exceptional expenditure of an urgent and unforeseen character not already provided for in this section." -Mah. Act 31 of 1975, section 4 (not yet enforced). Punjab :

Haryana : Chandigarh : In its application to Punjab, Haryana and Chandigarh in sub-section (1) of section 3, after clause (v), insert the following clause, namely : "(vi) any other purpose which the State Government may declare to be a suitable one for which loans may be taken by Local Authorities generally or by a particular Local Authority." - E.P. Act 17 of 1949, section 2 (29-10-1949); Punj. Act 41 of 1960: See now Act 31 of 1966, section 88.

4. Power to Government to make rules.

(1) The [appropriate Government] [Substituted for Local Government by A.O.1937.] may make rules [**] [For Rules applying to all local authorities in Union territories and to Cantonment Authorities and port authorities of major ports in the former Part A States, see the Local Authorities Loans (Central) Rules, 1937 (Gazette of India, 1937, Pt.I, p.1902); and for rules applying to other local authorities in the former Part A States, see the Local Authorities Loans Rules, 1915 (Gazette of India, 1915, Pt.I, p.1888).] consistent with this Act as to-(i) the nature of the funds on the security of which money may be borrowed;(ii) the works for which money may be borrowed;(iii) the manner of making applications for permission to borrow money;(iv) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries;(v) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;(vi) the cases in which the [appropriate Government] [Substituted for Local Government by A.O.1937.] may make loans [***] [Certain words were omitted by the Devolution Act, 1920 (38 of 1920), section 2 and Schedule I.](vii) [the cases in which local authorities may take loans from persons other than the [appropriate Government] [Substituted for the original clause Certain words were omitted by the Devolution Act, 1920 (38 of 1920), section 2 and Schedule I.];(viii) the manner of recording and enforcing the conditions on which money is to be borrowed;(ix) the manner and time of making or raising loans;(x) the inspection of any works carried out by means of loans;(xi) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon;(xii) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan;(xiii) the attachment of such funds, and the manner of disposing of or collecting them;(xiv) the accounts to be kept in respect of loans;(xv) the utilization of unexpended balances of loans either in the reduction in any way of the debt of the local authority, or in carrying out any works which that authority is legally authorized to carry out, and the sanction necessary to such utilization; and as to all other matters incidental to carrying this Act into effect.[****] [Sub-section (2) omitted, Certain words were omitted by the Devolution Act, 1920 (38 of 1920), section 2 and Schedule I.](3) All rules made under this Act shall be published [***] [Certain words omitted by the Devolution Act, 1920 (38 of 1920), section 2 and Schedule I.] in the [Official Gazette] [Substituted for Gazette of India by A.O. 1937]; and on such publication shall have effect if enacted in this Act.

5. Remedy by attachment if loan not repaid.

- If any money borrowed in accordance with the provisions of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the [appropriate Government] [Substituted for Local Government, by A.O. 1937], if itself the lender, may, and if the [appropriate Government] [Substituted for Local Government, by A.O. 1937] is not the lender, shall,

on the application of the lender, attach the funds on the security of which the loan was made. After such attachment, no person, except an officer appointed in this behalf by the [appropriate Government] [Substituted for Local Government, by A.O. 1937], shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings: Attachment not to defeat prior charges legally made. - Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

6. Issue of short term bills.

(1) Subject to the provisions of section 26 of the Indian Paper Currency Act, 1910 the local authorities mentioned in Schedule I and any other local authority to which the [appropriate Government] [Substituted for Governor-General in Council, by A.O. 1937] may, by notification in the [Official Gazette] [Substituted for Gazette of India by A.O. 1937.], extend the provisions of this section, may, with the previous sanction of the [appropriate Government] [Substituted for Governor-General in Council, by A.O. 1937], borrow money by means of the issue of bills or promissory notes payable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under any law for the time being in force: Provided that the amount of the bills or promissory notes which may be so issued, shall not exceed, when the amount of the other moneys for the time being borrowed by such local authority is taken into account, the total amount which such local authority is empowered by law to borrow. (2) The [appropriate Government] [Substituted for Governor-General in Council, by A.O. 1937] may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section.

7. Loans not to be effected except under this Act.

- Except as provided by or under this Act, no local authority shall, for any purpose, borrow money upon, or otherwise charge, its funds; and any contract otherwise made for that purpose after the passing of this Act shall be void: Provided that nothing herein contained shall be deemed-(a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force; or (b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be appointed.

Maharashtra : Gujarat : In its application to the States of Bombay (Maharashtra and Gujarat) after clause (b) of the proviso to section 7, insert the following, namely: or (c) to preclude any district local board established under sec. 4 of the Bombay Local Boards Act, 1923, from receiving an advance from the Government of Bombay equivalent to the amount of the cess, levied under sub-section (1) of section 93 of the said Act, which has not been collected or the collection of which has been suspended under sub-section (2) of the said section 93." - Bom. Act II of 1942, section 2 (7-2-1942)

Maha. A.L. (Am.) O., 1961 (with retrospective effect from 1-5-1960); and Guj. A.L. (8th Am.) O., 1961 (with retrospective effect from 1-5-1960). Maharashtra :In its application to the State of Maharashtra, in the proviso to section 7, substitute clause (c) as under:-(c) to preclude any Zilla Parishad duly constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, from receiving an advance from the State Government equivalent to the amount of the cess levied under sections 144, 151 and 152 of the said Act; which has not been collected or the collection of which has been suspended under section 154 of that Act."-Mah. Act 31 of 1975, section 5 (not yet enforced).

8. [Application of Act to loans existing previous to the fifth of September, 1871. [Substituted for the Original Section by A.O. 1937.]

- The remedy mentioned in section 5 shall be available for the recovery of any money lent by the secretary of State in Council to any local authority before the fifth day of September, eighteen hundred and seventy-one ,and the interest due on such money.]

Tamil Nadu :In its application to the transferred territories, i.e., Kanyakumari district and Shencottah taluka of Tirunelveli district of Tamil Nadu, after section 8, insert the following :-"9. Application of Act to loans existing previous to the date of commencement of Travancore-Cochin Act, IX of 1951.- The remedy mentioned in section 5 shall be available for the recovery of any money lent by the Government of the former State of Travancore or Travancore-Cochin to any local authority in the Kanyakumari district and the Shencottah Taluka of the Tirunelveli district, before the date of commencement of the Travancore-Cochin Local Authorities Loans Act, 1951 (Travancore-Cochin Act IX of 1951) and also for the recovery of interest and costs due in respect thereof."-T. N. Act 22 of 1965, section 3 and Schedule (1-7-1966).

9. [Repeals.]

- Repealed by the Repealing Act, 1927 (12 of 1927), section 2 and Schedule.

I

(See section 6)The Corporation of Calcutta.The Commissioners for the Port of Calcutta.[***] [The entry relating to the Commissioners for the port of Chittagong, omitted by the A.O.1948]The Municipal Corporation of the City of Bombay.The Trustees of the Port of Bombay.The Corporation of Madras.The Trustees for the Port of Madras.[***] [The entries relating to the Municipal Committee of Rangoon and the Commissioners for the port of Rangoon, omitted by the A.O.1937.][***] [The entries relating to the Municipality of Karachi and the Trustees of the port of Karachi, omitted by the A.O.1948.]The Trustees for the Improvement of the City of Bombay.The Trustees for the Improvement of the City of Calcutta.

II

Enactments repealed - Rep by the Repealing Act,1927(12 of 1927), section 2 and Schedule.