

The Madhya Bharat Local Authorities Loans Act, Samvat 2007

MADHYA BHARAT

India

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Act 64 of 1950

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The Madhya Bharat Local Authorities Loans Act, Samvat 2007 M.B. Act No. 64 of 1950 (Samvat 2007) Received the assent of H.H. the Raj Pramukh on 19-5-1950, published in the Government Gazette, dated 1-7-1950. An Act to provide for the Law relating to the borrowing powers of Local Authorities in Madhya Bharat. Preamble. - Whereas it is expedient to provide for the law relating to the borrowing powers of local authorities in Madhya Bharat; It is hereby enacted as follows :

1. Title, extent and commencement.

(1) This Act may be called "The Madhya Bharat Local Authorities Loans Act, Samvat 2007". (2) It shall extend to the whole of [Madhya Bharat region.] [Substituted by M.P. A.O. 1956.] (3) It shall come into force after 15 days from the date of its publication in the Government Gazette.

2. Definitions.

- For the purposes of this Act- (a) "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; (b) "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; (c) "Prescribed" means prescribed by rules made under this Act; (d) "Work" includes a survey, whether incidental to any other work or not; (e) "Government" means the Government of Madhya Bharat.

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 authorised to carry out;(ii)the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity, Floods, earthquakes or other general calamity;(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 laws :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 Government, no amount exceeding 25 lakhs of rupees shall be borrowed unless the terms, including the date of floatation of such loan have been approved by the Government.(2)Nothing in this section shall be deemed to authorise any local authority to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorised to apply its funds.

4. Powers of Government to make rules.

(1)The Government may make rules 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 cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;(v)the enquiries to be made in relation to such loans and the manner of conducting such enquiries;(vi)the cases in which the Government may take loans;(vii)the manner of recording and enforcing the condition on which money is to be borrowed;(viii)the cases in which local authorities may take loans from persons other than the Government;(ix)the manner and time of making or raising loans;(x)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;(xi)the inspection of any works carried out by means of loans;(xii)the sum to be charged against the funds which are to form the security for the loan, as cost in affecting 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 authorised to carry out, and the sanction, necessary to such utilisation, and as to all other matters incidental to carry this Act into effect.(2)All rules made under this Act, shall be published in the Government Gazette and on such publication shall have effect as 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 Government, if itself

the lender, may, and, if the Government 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 Government, shall in any way deal with the attached funds, but such officer may do all acts in respect thereof which the borrower might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interest 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. 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 pay of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

7. Application of Act to loans existing previously before the commencement of this Act.

- The Government shall be entitled to the remedy mentioned in Section 5 for the recovery of any money lent by any competent authority to any local authority before the commencement of this Act together with any interest, if due, on such money.

8. Repeal.

- As soon as this Act comes into force all Acts and other similar laws relating to the local authorities loans in force in any part of Madhya Bharat shall stand repealed :Provided that all orders passed and actions taken under them shall, in so far as they are not contrary to the provisions of this Act, be deemed to have been passed or taken under this Act.