



# Local Authorities Loans Act 1945

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An Act to prohibit the borrowing of money by local authorities otherwise than from the Public Works Loan Commissioners, to amend section five of the Public Works Loans Act, 1941, and to make further provision with respect to local loans and the borrowing powers of local authorities. [28th March 1945.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

## **1 Prohibition of borrowing otherwise than from Public Works Loan Commissioners**

- (1) Notwithstanding anything in any enactment it shall not be lawful for a local authority, without the approval of the Treasury, to borrow money otherwise than from the Public Works Loan Commissioners :

Provided that the Treasury may by regulations direct that, subject to the provisions of the regulations, nothing in this section shall apply to borrowing in such manner, for such purposes or from such sources as may be prescribed by the regulations.

- (2) This section shall continue in force until the thirty-first day of December, nineteen hundred and fifty, and no longer, unless Parliament otherwise determines.

## **2 Amendment of Public Works Loans Act, 1875**

- (1) The power of the Public Works Loan Commissioners to, make loans under section nine of the Public Works Loans Act, 1875, shall include power to make loans to any local authority for any purpose for which the authority has power to borrow by virtue of any enactment.
- (2) Section eleven of the said Act (which, as amended, by subsequent enactments, provides that a loan made thereunder shall be repayable within a period not exceeding the period authorised by a special Act relating to the loan or, if no period be so

authorised, not exceeding fifty years) shall have effect, in relation to a loan made to a local authority for any such purpose, as if a period authorised for the repayment of the loan by or under the enactment authorising the authority to borrow for that purpose were the period authorised by a special Act relating to the loan.

- (3) So much of section forty-one of the said Act as empowers the said Commissioners to make regulations with respect to any fees or sums to be paid by applicants for loans shall cease to have effect; and there shall be paid in respect of loans made by the said Commissioners fees of such amounts 'and at such times as the Treasury may by regulations made after consultation with the said Commissioners prescribe.

### **3 Provision of moneys for loans**

- (1) The Treasury may, if they think fit, instead of raising any sums required for the local loans fund by the creation of local loans stock under section eight of the National Debt and Local Loans Act, 1887, or other securities under section twenty-eight of the Finance Act, 1935, issue the like sums to the local loans fund out of the Consolidated Fund of the United Kingdom or the growing produce thereof (hereinafter referred to as the " Consolidated Fund").
- (2) For the purpose of providing sums to be issued out of the Consolidated Fund under the last foregoing subsection, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939.
- (3) Any sums issued to the local loans fund out of the Consolidated Fund under this section shall be repaid to the Exchequer out of the capital account of the local loans fund at such times and by such methods as the Treasury may direct, and interest thereon at such rate and at such times as the Treasury may direct shall be paid into the Exchequer out of the income account of the local loans fund.
- (4) Sums paid into the Exchequer under the last foregoing subsection shall be issued out of the Consolidated Fund at such times as the Treasury may direct and shall be applied by the Treasury as follows :—
- (a) so much thereof as represents principal shall be applied . in redeeming or paying off debt of such description as the Treasury think fit ;
  - (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this paragraph, have fallen to be paid out of the permanent annual charge for the National Debt.

### **4 Repayment of loans made by Public Works Loan Commissioners**

- (1) Nothing in any enactment requiring that, where a sum borrowed by a local authority is repayable by instalments (whether of principal alone or of principal and interest combined), the first instalment shall be paid within a specified period from the date of borrowing shall be taken to prevent the first instalment of a sum so borrowed from the Public Works Loan Commissioners being made repayable within any longer period authorised under section eleven of the Public Works Loans Act, 1875 (which provides for the fixing of a period not exceeding five years).
- (2) Nothing in any enactment requiring that, where a sum borrowed by a local authority is repayable by such instalments, the instalments shall be equal and periodical shall

be taken to prevent the Treasury from postponing, under section thirty-seven of the said Act, the payment of any instalment of a sum so borrowed from the said Commissioners, or to prevent the said Commissioners or the local authority from agreeing to the postponement on any terms authorised by the Treasury under that section.

- (3) Where, under either of the said sections or otherwise, payment of interest on any sum borrowed by a local authority from the said Commissioners is postponed (whether the interest would, but for the postponement, have been payable separately from the principal or as part of an instalment of principal and interest combined), the Commissioners and the local authority may agree that it shall be a condition of the postponement that all or any of the interest accruing during the period of the postponement shall, at the end of that period, be added to the principal and bear interest and be repaid accordingly. In this subsection references to postponing the payment of interest shall be construed as including references to arranging that the interval between the borrowing and the first payment of interest is longer than the interval between subsequent payments of interest, and references to the period of postponement as including references to the first mentioned interval.

## **5 Amendment of s. 5 of 4 and 5 Geo. 6. c. 14**

Section five of the Public Works Loans Act, 1941 (which authorises the Treasury to advance money to facilitate the conversion of local government securities) shall have effect subject to the following amendments :—

- (a) the power of the Treasury to advance moneys to a local or harbour authority under subsection (1) shall be extended so as to include power, where the authority with the approval of the Treasury makes a new issue of securities for the purpose of meeting the liability on any of its maturing securities, to advance to the authority, on such terms as the Treasury think fit, an amount equal to the price of issue of any part of the new issue of securities which is not taken up ;
- (b) the definition of the expression " local authority " in paragraph (b) of subsection (4) shall be extended so as to include any local authority within the meaning of this Act ; and
- (c) subsection (5) (which forbids advances under the section after the expiration of the Emergency Powers (Defence) Act, 1939) shall cease to have effect.

## **6 Amendment of enactments relating to minimum rate of interest**

Each of the following enactments (which relate to loans made by the, Public Works Loan Commissioners to local authorities) that is to say—

- (a) the proviso to subsection (2) of section fifty-two of the Small Holdings and Allotments Act, 1908 ;
- (b) subsection (2) of section seventy-two of the Housing (Scotland) Act, 1925 ; and
- (c) subsection (2) of section one hundred and twenty-three of the Housing Act, 1936 ;

shall have effect subject to the following amendments, that is to say—

- (i) in paragraph (a) (which provides that the loan shall be made at the minimum rate allowed for loans out of the local loans fund) the

reference to the minimum rate shall be construed as a reference to the minimum rate applicable to the period for which the loan is made ;

- (ii) paragraph (c) (which provides that the longer duration ' of a loan shall not be taken as a reason for fixing a higher rate of interest) shall cease to have effect.

## **7 Power to carry loans to consolidated loans funds and loans pools**

Where, by virtue of any enactment or otherwise, moneys borrowed by a local authority for different purposes are carried to a common fund or account, then, notwithstanding anything in any enactment, scheme or regulation, moneys borrowed (whether before or after the commencement of this Act) from the Public Works Loan Commissioners may, if the authority think fit, be carried to that fund or account, subject to such conditions as the Treasury may determine (including conditions for securing that the basis for calculating any payment to be made to the authority in respect of those moneys out of moneys provided by Parliament shall not be affected by their being carried to the fund or account).

## **8 Use by local authority of moneys forming part of capital funds**

- (1) Notwithstanding anything in any enactment, a local authority may use, for any purpose for which the authority has a statutory power to borrow, any moneys forming part of, but not for the time being required for the purposes of, any capital fund established by the authority; and where such moneys are so used the following provisions shall have effect:—
- (a) the moneys so used shall be repaid to the capital fund as follows :—
    - (i) they shall be repaid as and when they are required for the purposes of the capital fund;
    - (ii) if not required to be repaid earlier under sub-paragraph (i) of this paragraph, they shall be repaid within the period within which a loan raised under the statutory power would be repayable, or at such time before the expiration of that period as the authority may resolve ; "
    - (iii) the repayment shall be made out of the revenue fund of the authority, or out of moneys which would have been applicable to the repayment of a loan raised under the statutory power, and shall be made by the method by which a loan raised under the statutory power would be repayable ;
  - (b) in the accounts of the revenue fund of the authority, an amount equal to interest at the appropriate rate on the moneys so used and for the time being not repaid shall be "credited to the capital fund and debited to the undertaking or purpose for which the moneys are so used;
  - (c) the statutory power shall be deemed to be exercised by the use of moneys under this section as fully in all respects as if a loan of the same amount had been raised in exercise of the power, and the provisions of any enactment as to the reborrowing of sums raised under that power shall apply accordingly.
- (2) In this section the following expressions have the meanings hereby respectively assigned to them—
- (a) "capital fund" means any fund established for the repayment of debt, or as a reserve, or for the maintenance, renewal or repair of property, or for

superannuation of staff, or for insurance, or otherwise for meeting future expenditure of a capital or non-recurring nature, or for any like purpose ;

- (b) " interest at the appropriate rate" means interest at such rate as may be determined by the authority to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory power;
  - (c) " revenue fund " means the county fund, general rate fund or other fund into which the receipts of the authority are payable ;
  - (d) " statutory power to borrow " means a power to borrow conferred, by or under any enactment, but does not include the power to borrow by way of temporary loan or overdraft conferred by paragraph (a) of subsection (1) of section two hundred and fifteen of the Local Government Act, 1933, or by paragraph (a) of subsection (1) of section one hundred and thirty-nine of the London Government Act, 1939.
- (3) The powers conferred by this section shall be deemed to be in addition to, and not in derogation of, the powers conferred by any other enactment.

## **9 Laying of regulations before Parliament**

- (1) All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, but section one of the Rules Publication Act, 1893, shall not apply to regulations so made.
- (2) If either House of Parliament, within the period of twenty-eight days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall thereupon become void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.
- (3) In reckoning any, such period of twenty-eight days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

## **10 Interpretation**

In this Act the following Expressions have the meanings hereby respectively assigned to them :—

" enactment " includes an enactment in a local Act or in a provisional order confirmed by Parliament;

" local authority " means any authority being, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate.

## **11 Application to Scotland**

In the application of this Act to Scotland—

- (a) for any reference to paragraph (a) of subsection (1) of section two hundred and fifteen of the Local Government Act, 1933, there shall be substituted a reference to subsection (4) of section sixty-seven of the Local Government (Scotland) Act, 1889, and to section forty-nine of the Burgh Police (Scotland) Act, 1903 ;
- (b) for any reference to the Local Loans Act, 1875, there shall be substituted a reference to the Local Authorities Loans (Scotland) Act, 1891 ;

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*Status: This is the original version (as it was originally enacted).*

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- (c) for any reference to the general rate fund there shall be substituted a reference to the burgh fund.

## **12 Short title, commencement and extent**

- (1) This Act may be cited as the Local Authorities Loans Act, 1945.
- (2) This Act shall come into operation on such date as the Treasury may by order appoint.
- (3) This Act shall not extend to Northern Ireland.