



# Local Government (Scotland) Act 1947

## 1947 CHAPTER 43

### PART XII

#### BORROWING BY LOCAL AUTHORITIES.

##### *Repayment of Money Borrowed by Local Authorities.*

#### **262 Period for repayment of borrowed money.**

- (1) Subject to the provisions of this Part of this Act and save as otherwise provided in this Act, every sum borrowed by a local authority shall be repaid within such period not exceeding thirty years from the date of borrowing as the authority determine, or where under any enactment or statutory order relating to the purpose for which the sum is borrowed the consent of a Minister is required to a local authority borrowing, as the authority with the consent of the Minister determine:

Provided that the foregoing provisions of this subsection shall not apply—

- (a) in the case of a sum borrowed under paragraph (c) of subsection (1) of section two hundred and fifty-eight of this Act, and, save as otherwise provided in paragraph (c) of this proviso, any sum so borrowed for the purpose of meeting the cost of any work or plant shall be repaid within such period not exceeding thirty years as the authority determine to be the probable duration and continued utility of the work or plant, and any sum so borrowed for any other purpose shall be repaid within such period not exceeding ten years as the authority determine, or within such longer period as the authority with the consent of the Secretary of State determine;
- (b) in the case of a sum borrowed under paragraph (d), (e), (f) or (g) of subsection (1) of section two hundred and fifty-eight of this Act for the purpose of lending to any of the councils or authorities or a joint board as therein mentioned in order to meet expenditure of the council, authority or board to which subsection (2), (3) or (4) of that section relates, and any sum so borrowed shall be repaid within one month after the expiration of the period within which the borrowing council, authority or board are required to repay the loan in accordance with the provisions of this Part of this Act;

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- (c) in the case of a sum borrowed for any of the purposes of the enactments specified in the first column of the Sixth Schedule to this Act, and the sum so borrowed shall be repaid within the period specified or referred to in relation thereto in the second column of that Schedule;
  - (d) in the case of a sum borrowed for any of the purposes of a local Act, where that Act provides for a maximum period of repayment other than thirty years.
- (2) Where any sum is borrowed by a local authority for the purpose of meeting expenditure on the construction of new or the extension of or alteration of existing works forming or to form part of a public utility undertaking, it shall be lawful, subject to the consent of the Minister concerned with the undertaking, for any annual provision required to be made by the authority for the repayment of the sum so borrowed to be suspended for such period (not being a period longer than the period during which the expenditure remains unremunerative or the period of five years from the commencement of the financial year next after that in which the expenditure commences to be incurred, whichever is the shorter) and subject to such conditions as the Minister may determine.

#### **263 Repayment of borrowed money.**

- (1) Subject to the provisions of this Part of this Act, all sums borrowed by a local authority under any statutory borrowing power shall be repaid by equal yearly or half-yearly instalments of principal, or where repayment is on the annuity system, by equal yearly or half-yearly instalments of principal and interest combined, or by means of a sinking fund, or partly by one of those methods and partly by another or others of them:

Provided that in the case of a county council or a town council having a loans fund under this Part of this Act or under a local Act, the council shall in each financial year pay into the loans fund the sums required in that year for the repayment of money borrowed for the various purposes of the council in accordance with the provisions of the rules relating to the loans fund.

- (2) Subject to the provisions of subsection (2) of the immediately preceding section, the payment of the first instalment or the first payment to the sinking fund or the first payment to the loans fund shall be made within twelve months, or where the money is repayable by half-yearly instalments or payments within six months, from the date of borrowing.

#### **264 Returns to Secretary of State as to outstanding loans.**

- (1) Every local authority shall cause to be transmitted to the Secretary of State within three months after the expiration of each financial year and also at any other time within one month after being requested so to do by the Secretary of State a return showing the amount of moneys borrowed by the authority and outstanding and the provision made by the authority for the repayment thereof.
- (2) The return shall show such particulars and shall be in such form as the Secretary of State may prescribe, shall be certified by the treasurer or other officer whose duty it is to keep the accounts of the authority and shall if so required by the Secretary of State be verified by a statutory declaration made by that officer.
- (3) The return to be transmitted within three months after the expiration of the financial year shall be made up as at the expiration of that year, and any other return as at such other date as the Secretary of State may require.

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- (4) The duplicate abstract of accounts of a local authority which is required by section two hundred and three of this Act to be sent to the Secretary of State by the auditor of the accounts of the authority shall, if the Secretary of State so directs, be deemed to be a return made by the authority under this section as at the expiration of the financial year to which the accounts relate.
- (5) If it appears to the Secretary of State from any return made under this section or otherwise that a local authority—
- (a) have failed to pay any instalment or annual payment required to be made; or
  - (b) have failed to appropriate to the discharge of any loan any sum required to be so appropriated; or
  - (c) have failed to set apart any sum required for a sinking fund; or
  - (d) have applied any portion of a sinking fund to a purpose other than an authorised purpose;
- the Secretary of State may by order direct that such sum as is specified in the order, not exceeding the amount in respect of which default has been made, shall be paid or applied in the manner and by the date set out in the order, and the authority shall notify the Secretary of State as soon as the order has been complied with.
- (6) If a local authority with respect to whom an order has been made under the immediately preceding subsection fail to comply with any requirement thereof within the time specified in the order or if a return required to be made under this section is not made in accordance with the provisions of this section, the Secretary of State may apply by petition to the Court of Session who are hereby authorised to do therein as the Court appears to be just.
- (7) The provisions of this section shall be in substitution for and not in addition to any requirement under any other enactment or statutory order to make a return as to the provision made by a local authority for the repayment of borrowed money.

## **265 Sinking fund for repayment of borrowed money.**

- (1) If a local authority determine to repay by means of a sinking fund any sum borrowed by them, the sinking fund shall be formed and maintained either—
- (a) by payment to the fund throughout the period fixed for the repayment of the sum borrowed of such equal annual sums as will be sufficient to pay off within that period the sum for the repayment of which the fund is formed; or
  - (b) by payment to the fund throughout the fixed period of such equal annual sums as with accumulations at a rate not exceeding the rate prescribed by the Secretary of State or such other rate as he may in any particular case approve will be sufficient to repay within that period the sum for the repayment of which the fund is formed.

In this Part of this Act a sinking fund formed under paragraph (a) of this subsection is referred to as a " non-accumulating sinking fund," and a sinking fund formed under paragraph (b) thereof as an " accumulating sinking fund."

- (2) Every sum paid to a sinking fund shall, unless applied in repayment of the sum for the repayment of which the sinking fund is formed or in such other manner as may be authorised by this Act or any other enactment, be immediately invested in trustee securities and the authority may from time to time vary and transpose the investments.

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- (3) The interest received in any year from the investment of the sums paid into the sinking fund shall form part of the revenue for that year of the local authority, but in the case of an accumulating sinking fund the contribution to be made by the authority to the sinking fund shall in that year be increased by a sum equal to the interest which would have accrued to the sinking fund during that year if interest had been accumulated therein at the rate per centum per annum on which the annual payments to the sinking fund are based.
- (4) A local authority may at any time apply the whole or any part of a sinking fund in or towards the discharge of the sum for the repayment of which the sinking fund was formed:  
  
Provided that in the case of an accumulating sinking fund the authority shall continue to pay into the fund each year and accumulate during the remainder of the fixed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.
- (5) Any surplus of a sinking fund remaining after the discharge of the whole of the sum for the repayment of which it was formed shall be applied with the sanction of the Secretary of State in the repayment of debt or otherwise for any other purpose for which capital money may properly be applied.
- (6) This section shall apply to a sinking fund established by a local authority under any other enactment or any statutory order for the repayment of money borrowed by them in like manner as it applies to a sinking fund established under this Part of this Act according as the sinking fund is a non-accumulating or an accumulating sinking fund.

## **266 Adjustment of sinking fund.**

- (1) If at any time it appears to a local authority that the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part of this Act and, in the case of an accumulating sinking fund, with the accumulations thereon, will not be sufficient to repay within the fixed period the sum for the repayment of which the sinking fund is formed, the authority shall either temporarily or throughout the fixed period make such increased annual payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose, and if it appears to the Secretary of State on a report by the auditor of the accounts of the authority or otherwise that any such increase is necessary, the authority shall increase the payments to such extent as the Secretary of State may direct.
- (2) If the local authority desire to accelerate the repayment of any sum borrowed by them, they may increase the amounts payable to the sinking fund.
- (3) If the amount in any such sinking fund together with the sums which will be payable thereto in accordance with the provisions of this Part of this Act and, in the case of an accumulating sinking fund, with the accumulations thereon will in the opinion of the local authority be more than sufficient to repay within the fixed period the sum for the repayment of which the sinking fund is formed, the authority may with the consent of the Secretary of State reduce the payments to the sinking fund either temporarily or throughout the fixed period to such amounts as will be sufficient to repay within the fixed period the sum for the repayment of which the sinking fund is formed.

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- (4) If at any time the amount in a sinking fund together with the accumulations thereon in the case of an accumulating sinking fund will in the opinion of the local authority be sufficient to repay the sum for the repayment of which the sinking fund is formed within the fixed period, the authority may, subject to obtaining the consent of the Secretary of State, suspend the annual payments to the sinking fund for such period as the authority with the like consent may determine.
- (5) This section shall apply to a sinking fund established by a local authority under any other enactment or any statutory order for the repayment of money borrowed by them in like manner as it applies to a sinking fund established under this Part of this Act.