

SCHEDULES.

EIGHTH SCHEDULE

Section 275.

RULES REGULATING THE ADMINISTRATION OF A LOANS FUND ESTABLISHED BY A COUNTY COUNCIL OR TOWN COUNCIL UNDER THIS ACT.

General.

Interpretation.

- 1 In these rules, unless the context otherwise requires—
- " advance ", in relation to the loans fund and a borrowing account of a council, means the transfer of money by way of loan from the loans fund to the appropriate borrowing account in exercise of a statutory borrowing power;
 - " appointed day " means the day (being the commencement of a financial year) fixed by the council as the day from which a loans fund shall be established by the council;
 - " borrowing account ", in relation to a council, means an account of the council relating to a purpose for which the council have a statutory borrowing power;
 - " council " means a county council or a town council having a loans fund;
 - " loans fund " means a loans fund established under this Act;
 - " year " means the financial year of the council.

Method of exercise of statutory borrowing power.

- 2 Any statutory borrowing power vested in the council on or after the appointed day shall be exercised by the council in manner following and not otherwise, that is to say:—
- (a) by borrowing in accordance with the provisions of this Act and carrying to the loans fund such sums as are necessary to enable that fund to make to the appropriate borrowing account of the council or to the other local authority the advances which are required for the purpose for which the statutory borrowing power is available; and
 - (b) by making from the loans fund such advances to the appropriate borrowing account of the council or to the other local authority, as the case may be.

Accounts of Loans Fund.

Accounts of loans fund.

- 3 The council shall keep the accounts relating to the loans fund separate from the other accounts of the council.

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Loans fund to be kept in two parts, assets and liabilities and revenue and expenditure.

- 4 The loans fund shall be kept in two Parts:—
- Part I containing a record of all assets and liabilities of the fund classified as follows:—
- (a) Assets—
- (1) Sums advanced to the various borrowing accounts of the council.
- (2) Any loans to other local authorities which the council may be authorised to make.
- (3) Investments.
- (4) Deferred charges.
- (5) Any other assets.
- (b) Liabilities—
- (1) Mortgages created by the council.
- (2) Stock issued by the council.
- (3) Any other liabilities.
- Part II containing a record of the revenue and expenditure of the fund classified as follows:—
- (a) Revenue—
- (1) Interest from the various borrowing accounts of the council—
- (i) in respect of advances on account of capital;
- (ii) in respect of advances for ordinary expenditure.
- (2) Interest on loans to other local authorities made by the council.
- (3) Income from investments.
- (4) Other income including unclaimed interest and dividends.
- (b) Expenditure—
- (1) Interest and dividends on mortgages, stock and other loans to the council.
- (2) Loans fund expenses including stamp duties.

Provisions relating to Capital.

Transfer to loans fund of assets and liabilities on appointed day.

- 5 All money in the hands of the council on the appointed day in respect of any sinking or other fund established for the redemption of loans to the council, all other capital money in the hands of the council on the said day and available for the repayment of loans and any unapplied balance of money borrowed by the council (including any investments representing such money or balance) shall be paid into and form part of the capital money of the loans fund, and all liabilities of the council in respect of borrowed money outstanding on the appointed day shall be transferred to and form part of the liabilities of the fund.

Payments of capital money to loans fund.

- 6 The following sums shall be paid into the loans fund as capital money when received or, in the case of sums specified in paragraphs (c) and (e) hereof, when due, that is to say—

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- (a) all money borrowed by the council in the exercise of their statutory borrowing powers, including money forming part of any capital fund (within the meaning of section eight of the Local Authorities Loans Act, 1945) belonging to or held by the council transferred by authority of the council to the loans fund for the purpose of being used under the provisions of this Act in exercise of a statutory borrowing power;
- (b) all money of a capital nature received by the council whether from the sale of capital assets or otherwise, except such as is properly applicable to another capital purpose;
- (c) the appropriate periodical sums required to be set aside by the council out of the various borrowing accounts for the repayment of advances made from the loans fund to these borrowing accounts;
- (d) the appropriate periodical sums and other sums paid by other local authorities in repayment of advances to those authorities;
- (e) any other money which is directed in pursuance of these rules to be carried to the loans fund and treated as capital money in the loans fund.

Capital payments from loans fund.

- 7 (1) Capital money in the loans fund may be applied—
- (a) in the exercise of any statutory borrowing power of the council duly authorised by the council, by advancing the required amount to the appropriate borrowing account of the council or in making loans to other local authorities;
 - (b) in the redemption of securities created by the council, in the purchase of stock for extinction or in the repayment of any money borrowed by the council;
 - (c) in defraying the expenses incurred by the council in the creation and issue of stock so far as the same are not defrayed under rule 13 hereof; and
 - (d) in defraying any other charges which are directed in pursuance of these rules to be defrayed out of capital money in the loans fund.
- (2) Any capital money in the loans fund, not so applied or not about to be so applied within a reasonable period, shall be invested in trustee securities, and the sums realised by the sale of such securities shall on receipt be paid into the loans fund as capital money.
- (3) Capital money in the loans fund shall not be applied otherwise than in accordance with the provisions of the preceding paragraphs of this rule.

Conditions regulating advances.

- 8 (1) Advances from the loans fund to a borrowing account shall so far as practicable be made on the fifteenth day of May in each year, so however that if the advance is made on some other date interest shall be charged in accordance with the provisions of paragraph (4) (a) of rule 18 hereof.
- (2) The council shall at the time an advance is made determine—
- (a) the period within which the advance is to be repaid to the loans funds, so however that the period shall not exceed that prescribed by the enactment or statutory order regulating the statutory borrowing power; and
 - (b) the amount of each of the periodical payments required to repay the advance within the period so determined, and the date on which the first of the said

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payments is to be made. The payments shall be either equal yearly or half-yearly instalments of principal or, where the advance is to be repaid on the annuity system, equal yearly or half-yearly instalments of principal and interest combined, the amount of principal included in each instalment being separately stated.

- (3) The periodical payments shall so far as practicable be so adjusted as to be expressed in complete pounds.
- (4) The appropriate sums required for the repayment of advances to the loans fund shall be set aside, in the case of yearly repayments on the fifteenth day of May, and in the case of half-yearly payments on the fifteenth day of May and the eleventh day of November in each year.
- (5) The amount advanced from the loans fund in exercise of a statutory borrowing power of the council to the appropriate borrowing account of the council shall be diminished each year by the amount of capital paid into the loans fund during the year in respect of that borrowing power.
- (6) Whenever capital money (other than money borrowed by the council) is paid into the loans fund, the periodical payments in respect of the advances affected, or if there is no such advance affected, the periodical payments in respect of an advance for a like purpose, or if there is no such advance, the periodical payments in respect of such other advance as the council may determine, shall be adjusted.
- (7) This rule shall apply with the necessary modifications in the case of loans by the council to another local authority.

Borrowing powers exercised before appointed day.

- 9 (1) Any money borrowed by the council before the appointed day in exercise of a statutory borrowing power less—
 - (a) the amount by which the loan has been reduced by repayment or extinction before the appointed day, and
 - (b) the amount on the appointed day of any sinking or other fund provided in connection with the redemption thereof, any investments forming part thereof being taken at the market selling value on that day, and
 - (c) the amount of any unexpended balance of the money borrowed transferred to the loans fund,

shall be deemed to have been provided by means of an advance from the loans fund to the appropriate borrowing account.

- (2) The net amounts of the advances so calculated, together with particulars of the appropriate instalments to be repaid during the remainder of the period prescribed by the enactments relating to the statutory borrowing power, shall be entered in the register of advances hereinafter mentioned.
- (3) Where before the appointed day provision is being made for the repayment of any sum borrowed by the council by means of an accumulating sinking fund within the meaning of section two hundred and sixty-five of this Act or by instalments on the annuity system, the council may if they think fit determine that the instalments to be transferred to the loans fund during the remainder of the period prescribed by the statutory borrowing power shall be equal yearly or half-yearly instalments of principal.

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Register of advances.

- 10 The council shall, in addition to any other registers required to be kept under this Act or under regulations made under this Act, keep a register of the advances made out of the loans fund to the borrowing accounts of the council, setting out all arrangements in regard to repayment, and all periodical payments in respect of such advances shall be duly entered in the register.

Redemption of debt.

- 11 The council shall so administer the capital money of the loans fund as to ensure that, at the date when the holders of any security created by the council become entitled to claim redemption or repayment thereof, sufficient money is available for the purpose.

Deferred charges and liquidation thereof.

- 12 (1) The expenses incurred in the creation and issue of stock by the council which are under rule 7 hereof defrayed out of the capital money in the loans fund, together with any discount liability which has been assumed by the council in respect of the redemption of stock at a value exceeding the price at which the stock was issued, shall be treated for the purposes of these rules as " deferred charges."
- (2) There shall be defrayed in each year out of the revenue money of the loans fund, and debited so far as it relates to discount to the interest account hereinafter mentioned, and so far as it relates to expenses to the loans fund expenses account hereinafter mentioned, such proportion of the deferred charges incurred in respect of each issue of stock as the council may determine, not being less than the proportion of the said charges which one year bears to the number of complete years which will elapse before that stock first becomes redeemable by the council.

Premiums received on issues of stock.

- 13 The expenses incurred by the council in the creation and issue of stock shall be a first charge on any sums received as premiums in respect of that issue, and such proportion of the remainder, if any, of the sums so received as corresponds with the proportion which one year bears to the number of complete years which will elapse before that stock first becomes redeemable by the council shall be appropriated in each year to the revenue, purposes of the loans fund and credited to the interest account.

Valuation of assets and liabilities.

- 14 (1) All investments transferred to the loans fund on the appointed day under rule 5 hereof shall be entered in the accounts of the loans fund at their market selling value on that day.
- (2) Save as aforesaid, any investment of money of the loans fund shall be entered in the accounts of the loans fund at its cost price exclusive of the expenses of investment.
- (3) Any stock issued by the council before the appointed day the liabilities in respect of which are transferred to the loans fund shall be entered in the accounts of the loans fund at the value at which the stock is to be redeemed.

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Profits and losses.

- 15 There shall be ascertained at the close of each year the net profit or loss which has arisen during the year on—
- (a) the realisation of investments,
 - (b) the repayment of loans, and
 - (c) the purchase of stock or other securities of the council below or above the value at which they stand in the books of the loans fund,

and the net profit or loss so ascertained (so far as the same is not transferred or met under the immediately succeeding rule) shall be transferred to the credit or debit of the loans fund expenses account at the close of the year:

Provided that the Secretary of State may on the application of the council sanction part of the net profit or loss not being so transferred but being applied or liquidated in accordance with a scheme made by the council and approved by the Secretary of State.

Loans fund reserve account.

- 16 (1) There shall be transferred to the credit of an account called the loans fund reserve account the net profit ascertained under the immediately preceding rule in any year or such part of the net profit as the council consider proper, having regard to the purposes of the account.
- (2) The council may, and if required by the Secretary of State shall, transfer to the credit of the loans fund reserve account from the loans fund expenses account such sum as the council or the Secretary of State, as the case may be, may consider to be reasonable in respect of the depreciation in the valuation of the investments of the loans fund.
- (3) A valuation of the investments of the loans fund shall be made as at the close of each year and a statement appended to the balance sheet showing the amount of any depreciation as at the said date in the total selling value of those investments as against the total value at which they are entered in the accounts of the loans fund and the total amount, if any, which has been transferred to the loans fund reserve account under the immediately preceding paragraph of this rule and-is at the time available to meet the said depreciation.
- (4) Any money at the credit of the loans fund reserve account may be applied in the manner following but not otherwise:—
- (a) in or towards meeting any net loss ascertained under the immediately preceding rule in any year; or
 - (b) in reduction of the periodical repayment instalments by the borrowing accounts to the loans fund over such period of years as the council may determine, so however that the council shall allocate the total annual amount to be applied towards such reduction among the borrowing accounts in the manner provided for in rule 19 hereof:

Provided that no sum shall be applied under paragraph (b) hereof unless the council are satisfied that there will remain in the account an ample reserve in respect of depreciation in the valuation of the investments of the loans fund.

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Provisions relating to Revenue.

Revenue and expenditure.

- 17 The council shall from time to time pay to the loans fund such sums as are required from time to time to enable the fund to meet the interest payable on sums borrowed by the council and any other sums directed to be debited to the interest account and the expenses of the loans fund and any other sums directed to be debited to the loans fund expenses account, which sums shall be provided by the several borrowing accounts of the council in accordance with the provisions of rules 18 and 19 hereof.

Interest account.

- 18 (1) There shall be charged to the interest account and credited to each account of the council which has from time to time during the year any revenue balance in the loans fund interest at a rate to be determined by the council.
- (2) There shall be charged to the interest account and credited to each account of the council from which a capital sum (otherwise than by way of reduction of an advance) has during the year been carried to the loans fund interest at a rate to be determined by the council, such rate being equal as nearly as may be to the rate of interest which would be payable on money borrowed during the year of account under a statutory borrowing power.
- (3) There shall be charged to each borrowing account of the council which has from time to time during the year received temporary advances of money from the loans fund for current and other expenses, and credited to the interest account interest at a rate to be determined by the council.
- (4) Subject to the provisions of this paragraph and of the immediately succeeding paragraph of this rule, the amount of the interest payable during the year by the council on sums borrowed by the council (including interest credited to accounts of the council under paragraphs (1) and (2) of this rule) after deducting the interest received during the year on investments and on loans to other local authorities and the interest charged to borrowing accounts in respect of temporary advances under paragraph (3) of this rule, and allowing for any sums directed by or in accordance with these rules to be debited or credited to the interest account (in this rule referred to as " the net amount "), shall be apportioned at the close of the year between the several borrowing accounts of the council in the manner following, that is to say:—
- (a) there shall first be charged or allowed to each borrowing account, in respect of any advance or repayment of an advance which has been made or received during the year the appropriate amount in respect of interest for the period between the date of the advance or repayment and the close of the year, calculated at the average rate payable by the council on money borrowed on account of the loans fund;
- (b) the net amount (adjusted to give effect to paragraph (a) hereof) shall be apportioned among the borrowing accounts in the proportion which the advances to each borrowing account outstanding at the commencement of the year bear to the total of the outstanding advances to all the borrowing accounts at such commencement:

Provided that—

- (i) the council may, in the case of local bonds under the Housing (Scotland) Acts, 1925 to 1946, or in any other case where special circumstances

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exist, make such special charge on account of interest as the council think equitable; and

- (ii) wherever the charge in respect of interest affects the amount of any Exchequer grant, such charge shall be subject to the approval of the Minister concerned.

- (5) The council in their discretion may, in lieu of the provisions of the immediately preceding paragraph of this rule but subject always to the proviso thereto, apportion the net amount for any year among the accounts of the council in proportion to the average amount of advances to each borrowing account during the year, so however that if this method of apportionment is adopted, the amount of advances to each borrowing account shall be adjusted by monthly transfers between the loans fund and the several borrowing accounts, and the monthly amounts so ascertained for each account shall form the basis for calculating the average amount of advances to each borrowing account during the year.

Loans fund expenses account.

- 19 There shall be ascertained at the close of each year all revenue expenditure (exclusive of interest) in connection with the loans fund during the year, including without prejudice to the said generality—

- (a) any expenses in connection with borrowing money (other than expenses of the creation and issue of stock),
- (b) any annual contribution to meet deferred charges, -so far as they relate to expenses of the creation and issue of stock,
- (c) any loss in connection with investments debited to the loans fund expenses account under rule 15 hereof, and any sums transferred to the credit of the loans fund reserve account from the loans fund expenses account under rule 16 hereof, and
- (d) any other expenses incurred in connection with the management or investment of the loans fund, including such proportion of the remuneration of officers and general administration expenses of the council as may reasonably be allocated to the fund;

and from the total expenditure so ascertained there shall be deducted—

- (a) any items of expenditure during the year which are specifically and properly chargeable to borrowing accounts of the council,
- (b) any profit in connection with investments credited to the loans fund expenses account during the year under rule 15 hereof, and
- (c) any fees or other revenue receipts of the loans fund;

and the balance remaining shall be apportioned among the borrowing accounts in the proportion which the advances to each borrowing account outstanding on the last day of the year bear to the total of all such advances at that date :

Provided that the council may in their discretion apportion the said balance among the borrowing accounts of the authority in proportion to the average amount of advances to each borrowing account during the year, so however that, if this method of apportionment is adopted, the amount of advances to each borrowing account shall be adjusted by monthly transfers between the loans fund and the several accounts, and the monthly amounts so ascertained for each account shall form the basis of calculating the average amount of advances to each borrowing account during the year.

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Balance Sheet, Certification of Accounts and Report by Auditor.

Balance sheet, certification of accounts and report by auditor.

- 20 A separate balance sheet of the loans fund of the council shall be prepared as at the close of each year, and the accounts relating to the loans fund as well as the balance sheet shall be certified as to the correctness thereof by the treasurer of the council, and the auditor of the accounts of the council shall at least once in every year make a report to the council setting forth—
- (a) the enactments (including this Act) and statutory orders under which sums have been borrowed by the council and advances made to the borrowing accounts of the council, and whether the council have duly paid into the loans fund the interest due by the borrowing accounts and the appropriate periodical sums required to be set aside for the repayment of advances made from the loans fund to the borrowing accounts; and
 - (b) whether the provisions of these rules have otherwise been duly complied with.

Miscellaneous.

Default by council.

- 21 In the event of it appearing at any time from a report by the auditor of the accounts of the council or otherwise that the council have failed duly to make payment of interest or of the appropriate periodical sums required to be set aside for the repayment of advances made from the loans fund as aforesaid, or that the provisions of these rules have otherwise not been duly complied with, it shall be competent for the Secretary of State to apply by petition to the Court of Session to have the council ordained to make such payment and to comply in such other manner with the provisions of these rules as may be necessary in the circumstances, and the Court are hereby authorised to do therein as shall appear to be just.

Investigation of loans fund.

- 22 Without prejudice to the provisions of the preceding rule, the Secretary of State may from time to time as he thinks fit cause an investigation to be made into the administration of the loans fund of the council, and the expenses of such investigation shall be defrayed by the council.

Loans fund regulations.

- 23 Notwithstanding anything in this Schedule, the Secretary of State may from time to time by regulations make such modifications in or additions to any of these rules as appear to him necessary or desirable and such regulations may apply generally or in the case of any particular council or class of council.