

The Local Authorities Loans Act, 1914
Act No. 9 of 1914

hl376

[28th February, 1914]

LEGISLATIVE HISTORY 6

- The Devolution Act, 1920 (Act No. 38 of 1920)
- Adaptation of Laws Orders, 1937
- Adaptation of Laws Order, 1950
- Adaptation of Laws (No. 2) Order, 1956
- Extended to Territories which immediately before 1st November, 1956, were comprised in State of PEPSU by Punjab Act 41 of 1960

An Act to Consolidate and amend the law relating to grant of loans to local authorities.

Preamble. - 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]].

Object & Reasons6

Statement of Objects and Reasons. - Certain practical difficulties have arisen in the working of the Local Authorities Loans Act, 1879 (11 of 1879), and it is proposed to amend that Act so as-

- (1) to remove all doubts as to the competency of Port Officers to borrow under the Act.
- (2) to make it clear that in the case of loans raised under section 7 of the Act (i.e. loans raised in the open market), the Government of India can (a) by rule delegate the power of sanction to Local Governments; (b) direct that the unexpended balances of such loans shall be applied in the reduction of the debt of the local authority concerned, or utilised in carrying out works which the local authority is legally authorised to carry out; (c) by rule delegate to Local Governments, subject to such conditions as to the Governor-General in

Council may by rule impose the power referred to in the preceding clause.

At the same time it is considered desirable to take this opportunity of consolidating the existing Acts which relate to loans raised by Local Authorities. Those Acts are as follows :-

- (1) The Local Authorities Loans Act of 1879 (11 of 1879) as amended by Act 15 of 1885, Act 1 of 1905 and Act 5 of 1907. This is the general Act under which local authorities derive their ordinary borrowing powers.
- (2) Local Authorities (Emergency) Loans Act, 1897 (12 of 1897), as amended by Act 11 of 1912. This Act extended the scope of the general Act by enabling local authorities to borrow money for certain temporary emergencies, such as famine relief and the prevention of epidemic diseases.
- (3) The Local Authorities Loans Act, 1904 (3 of 1904), as amended by Act 8 of 1908, which empowered certain of the more important local authorities in India (specified in the Schedule of the Act), to raise money by the issue of short-term bills repayable within twelve months. Opportunity was taken to embody in this Act a provision (section 3) enabling local authorities, under certain restrictions, to raise money in order to repay money previously borrowed.

These three Acts, together with their various amending Acts, have been consolidated in the draft Bill, and, if the latter becomes law, will disappear from the statute-book. The amendments mentioned in paragraph one above have also been provided for in the following manner:-

Amendment (1). - This is covered by substitution of the words 'any person' for the words 'any body corporate, Municipal Committee, or other persons' in the present definition of local authority as given in section 3 of Act 11 of 1870 - See clause 2 of the Bill (now section 2).

Amendment (2). - This has been provided for by clause 4(1)(vii) of the Bill.

Amendment 2(b) and (c). - These have been provided for all clause 4(1)(xv) of the Bill.

In addition to these amendments, opportunity has been taken to reconcile certain discrepancies and to effect certain simplifications in the existing law which are due to the fact that the Acts now in force have been passed at different times to deal with special circumstances. Apart from this the Bill makes no change of principle in existing law, and, in particular, does not affect the borrowing powers conferred on any local authority by any special enactment."

Gazette of India, 1914, Part V, p.5.

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 other work or not.

["The Government" or "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.]

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;
- [(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] :

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], no amount exceeding twenty-five lakhs of

rupees shall be borrowed unless the terms, including the date of floatation of such loan have been approved by the [appropriate Government.]

(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.

4. Power to Appropriate Government to make rules. - (1) The [Appropriate Government] may make rules consistent with this Act as to

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- (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 enquiries 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] may make loans [* * *]
- [(vii) the cases in which local authorities may take loans from persons other than the [Appropriate Government.]];
- (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 loans, 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.

[* * * *]

(3) All rules made under this Act shall be published [* * * *] in the [official 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 [Appropriate Government], if itself the lender, may, and, if the [Appropriate 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 [Appropriate Government], 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 debit 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] may, by notification in the [Official Gazette] extend the provisions of this section, may, with the previous sanction of the [Appropriate Government], 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], 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 applied.

[8. Act to loans existing previous to September, 1871. - 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.]

9. [Repeals.] - Repealed by the Repealing Act, 1927 (12 of 1927).

Schedule I

(See section 6)

The Corporation of Calcutta.

The Commissioners for the Port of Calcutta.

[*****]

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.

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The Trustees for the Improvement of the City of Bombay.
The Trustees for the Improvement of the City of Calcutta.

Schedule II

(Enactments repealed) Repealed by the Repealing Act, 1927 (12 of 1927).