



LAWS OF KENYA

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**LOCAL GOVERNMENT LOANS ACT**

CHAPTER 270

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**CHAPTER 270**

**LOCAL GOVERNMENT LOANS ACT**

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**CHAPTER 270**

**LOCAL GOVERNMENT LOANS ACT**

[Date of assent: 20th March, 1953.]

[Date of commencement: 20th March, 1953.]

**An Act of Parliament to facilitate the borrowing by local government authorities of money for capital development, to establish a Local Government Loans Authority and a Fund for that purpose; and for purposes connected therewith**

[Act No. 9 of 1953, Act No. 59 of 1954, Act No. 9 of 1955, L.N. 288/1957, L.N. 173/1960, L.N. 2/1964, L.N. 365/1964, Act No. 21 of 1966, Act No. 9 of 1967, Act No. 12 of 1985.]

**1. Short title**

This Act may be cited as the Local Government Loans Act.

**2. Interpretation**

In this Act, except where the context otherwise requires—

“**statutory securities**” means securities in which trustees are for the time being authorised by law to invest trust moneys, and any security created by a local authority other than securities transferable by delivery;

“**the Authority**” means the Local Government Loans Authority established by section 3 of this Act;

“**the Fund**” means the Local Government Loans Fund established by section 6 of this Act.

**3. Establishment and constitution of Local Government Loans Authority**

(1) There is hereby established a Local Government Loans Authority which shall be a body corporate by that name with perpetual succession and a common seal, and which shall exercise the duties and have the powers conferred upon it by this Act.

(2) The Authority shall consist of—

- (a) the Member, who shall be Chairman of the Authority;
- (b) a person to be appointed by the Member for Finance;
- (c) the Commissioner for Local Government;
- (d) the Local Government Inspector; and
- (e) such other persons as the Member may from time to time appoint.

(3) In the case of his absence from, or inability to attend any meeting of the Authority, an officer mentioned in paragraph (c) or (d) of subsection (2) of this section may be represented at such meeting by a deputy nominated by such officer, and any such deputy shall be deemed to be a duly appointed member of the Authority for the purposes of such meeting.

(4) Every member of the Authority appointed under paragraph (e) of subsection (2) of this section shall hold office during the Minister's pleasure, and any person appointed under paragraph (b) of that subsection shall hold office during the pleasure of the Member for the time being responsible for Finance.

(5) The Authority shall have power to enter into contracts and to hold and dispose of property both movable and immovable, and may sue and be sued in its corporate name.

#### **4. Meetings and procedure of Authority**

(1) In the absence of the Minister from any meeting of the Authority, a person shall be chosen by the members present at the meeting, from their number, to preside at such meeting.

(2) At all meetings of the Authority, three members, of whom not less than two are persons other than persons appointed under paragraph (e) of subsection (2) of section 3 of this section, shall form a quorum.

(3) The Member, or other person acting as chairman of any meeting of the Authority, shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote; a decision of the majority of the members present and voting at a meeting of the Authority shall be deemed to be the decision of the Authority.

(4) The Authority shall have power to act notwithstanding a vacancy among the members thereof, and all acts done at any meeting of the Authority shall, notwithstanding that it was afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Authority, be as valid as if that defect had not existed.

(5) Subject to the provisions of this section, the Authority shall have power to regulate its own procedure.

(6) The seal of the Authority shall be authenticated by the signatures of the Member and the Commissioner for Local Government, and such seal shall be officially and judicially noticed.

(7) All documents, other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hand of the Commissioner for Local Government.

(8) It shall be the duty of the Commissioner for Local Government to carry into effect the decisions of the Authority.

#### **5. Accounts and report by Authority**

(1) The Authority shall keep such capital, revenue and other accounts as the Minister for the time being responsible for Finance may from time to time require, and such accounts together with a balance sheet shall be submitted for audit to the Auditor-General (Corporations) within four months after the end of each financial year or within such further period as the Minister may in any particular case direct.

(2) The Authority shall, as soon as practicable after the report of the Auditor-General (Corporations) on the accounts for the preceding financial year has been received in every year, submit to the Member a report upon the administration of

the affairs of the Authority and the working of the Fund during the preceding year, together with the accounts and balance sheet duly audited in accordance with subsection (1) of this section.

(3) Every such report and all such accounts and balance sheets as are furnished to the Member under this section shall be laid by the Member before the National Assembly as soon as may be after they are submitted to him.

[L.N. 365/1964, Sch., Act No. 9 of 1967, Sch., Act No. 12 of 1985, Sch.]

## **6. Establishment of Local Government Loans Fund**

(1) There is hereby established a Local Government Loans Fund under the control of the Authority, consisting of such securities and moneys and applicable to such purposes as are provided for by this Act.

(2) There shall, by virtue of this Act and without further assurance, become vested in the Authority the right of the Government to demand, sue for and recover, and give receipts for, and the benefit of all securities for such loans made to local authorities by the Government out of the public revenues of the Colony as may be approved from time to time by Parliament to the extent to which such loans, at the date of commencement of this Act, remain outstanding; and all moneys received by the Authority on account of every such loan shall be carried to the Fund.

(3) There shall also be paid to the Authority and carried to the Fund—

- (a) moneys which may from time to time be voted or appropriated by Parliament for the purpose of providing loans to local authorities;
- (b) repayments of principal or interest made by any local authority on account of any loan referred to in subsection (2) of this section;
- (c) repayments of principal or interest made by any local authority on account of any loan made by the Authority under the provisions of this Act;
- (d) moneys as may from time to time be borrowed by the Authority in exercise of the powers conferred by this Act;
- (e) moneys which may from time to time become due upon any investment made by the Authority in exercise of the powers conferred by this Act.

(4) Every such loan referred to in subsection (2) of this section shall be deemed for the purposes of sections 9, 10 and 11 of this Act to be a loan made by the Authority under this Act.

(5) The Authority may from time to time incur and meet out of the Fund all such administrative and other expenses as may be necessary or desirable for the efficient discharge of its functions under this Act.

[Act No. 59 of 1954, s. 2, L.N. 365/1964, Sch.]

## **7. Loans by Authority and repayments thereof**

(1) The Authority may from time to time, as provided by this Act, make loans to local authorities for purposes which local authorities may be authorised by law to borrow money.

(2) The Authority may from time to time make to a local authority advances of moneys required for the proper discharge of the functions of the local authority.

(3) *Deleted by L.N. 365/1964, Sch.*

(4) Every loan made by the Authority under this Act to a local authority shall bear interest at such rate and shall be repaid at such time and in such manner as the Authority may determine.

[L.N. 365/1964, Sch.]

#### **8. Charge of loan on rates and revenues of local authority**

Moneys borrowed by a local authority from the Authority and loans referred to in subsection (2) of section 6 of this Act shall be charged indifferently on all the rates and revenues of the local authority.

#### **9. Powers in relation to rate where default made**

(1) If a local authority having power to levy rates or taxes or impose and collect dues or cesses shall neglect to pay moneys due to the Authority in respect of a loan granted under this Act, the Minister may, after the expiry of sixty days from the date on which the moneys become due and payable, forthwith impose and levy a rate or tax of sufficient amount which may be imposed and levied by the local authority, and impose and recover any dues or cesses which may be imposed and recovered by the local authority.

(2) For the purpose of this section the Minister shall have all the powers vested in the local authority for imposing, levying and recovering rates upon all rateable property and improvements thereon within its jurisdiction and for imposing, levying and recovering taxes and for imposing and recovering such dues and cesses.

(3) The Minister, in making an estimate of the rate or tax to be levied or of the dues or cesses to be imposed for the purpose of paying any sum due to the Authority, may add such sum as he thinks sufficient for defraying, and may defray thereout, all costs, charges and expenses, including remuneration to any officer or other person employed, incurred in the execution of the powers conferred by this section or otherwise by reason of the default in payment of the sum due to the Authority.

(4) If, after payment out of the proceeds of any such rate or tax or dues or cesses of the sum due to the Authority and of the expenses of and incidental to the imposition, levy and recovery of such rate or tax or dues or cesses, there remains any balance, such balance shall be paid over to the local authority whose default led to the exercise by the Minister of his powers under this section.

[L.N. 288/1957, L.N. 173/1960.]

#### **10. Discharge of security on repayment of the loan**

Upon all money due from a local authority to the Authority being fully paid, the Authority shall, when required, give to the local authority a receipt in writing for the same, and such further sufficient discharge (if any) as may seem to the Authority to be necessary, and upon such receipt being given the rates and revenues of the local authority shall be released from the charge created by section 8 of this Act.

**11. Charge of service of loan to particular account**

Where a loan is made by the Authority to meet any expenditure of a local authority which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, or for payment of interest thereon.

**12. Borrowing by Authority**

(1) The Authority may, with the consent of the Member for Finance, borrow such sums as may be required by the Authority in exercise of the powers conferred by this Act.

(2) Where the Authority is authorized to borrow money, it may, subject to the provisions of this Act, raise the money either—

- (a) by stock issued under this Act; or
- (b) by local bonds issued under this Act; or
- (c) in such other manner as may be approved by the Minister for the time being responsible for Finance.

(3) Moneys borrowed by the Authority under this Act shall be charged indifferently on all the revenues of the Authority.

[L.N. 365/1964, Sch.]

**13. Establishment and application of sinking funds**

(1) The Authority may from time to time, and shall whenever so directed by the Minister for Finance, establish and maintain such sinking funds as may be necessary or desirable for the efficient discharge of his functions under this Act.

(2) The Authority shall apply moneys for the time being comprised in a sinking fund maintained under subsection (1) of this section in redemption of the borrowing by the Authority in respect of which such sinking fund is maintained, and, pending such application, any such moneys may be—

- (a) invested in the manner as provided by section 14 of this Act; or
- (b) subject to the approval of the Minister for Finance, applied in the exercise of the powers conferred by section 7 of this Act.

[Act No. 59 of 1954, s. 3.]

**14. Investment of surplus moneys**

The Authority may from time to time invest moneys for the time being in the Fund which are not immediately required for the discharge of its functions under this Act in any investment for the time being authorized by any law in force for the investment of trust moneys, and any such investments may from time to time be varied or transposed.

[Act No. 59 of 1954, s. 3.]

**15. Stock regulations**

(1) For the purposes of borrowing by the Authority by means of an issue of stock under this Act, stock may be created, issued, transferred, dealt with and redeemed as may be prescribed by regulations made with the consent of the Minister for the time being responsible for Finance.

(2) Without prejudice to the generality of the above power, the regulations made under this section may provide for the discharge of any loan as raised, and may provide for the consent of owners under disability and for the application or non-application of the Act relating to stamp duty subject to the provisions of sections 16 and 18 of this Act and to cheques, and for the disposal of unclaimed dividends.

#### **16. Provisions as to local bonds**

For the purposes of any borrowing by the Authority by means of an issue of local bonds under this Act the following provisions shall have effect, that is to say, the bonds shall—

- (a) be secured upon all the revenues of the Authority;
- (b) bear interest at such rate as the Authority may determine at the time of issue of the bonds;
- (c) be issued in denominations of one hundred, two hundred, four hundred, one thousand and two thousand shillings and multiples of two thousand shillings;
- (d) be issued for periods of not less than three years;
- (e) be exempt from all stamp duties.

[Act No. 59 of 1954, s. 4.]

#### **17. Stock and bonds to be trustee securities**

A trustee, as defined in the Trustee Act (Cap. 167), may invest trust funds in his hands, whether at the time in a state of investment or not, in stock or local bonds issued by the Authority under this Act.

#### **18. Transfers of stock and bonds exempt from stamp duty**

Transfers of stock or local bonds issued by the Authority under this Act shall be exempt from all stamp duties.

**19.** Deleted by L.N. 365/1964.

#### **20. Appointment of receiver**

(1) If at any time any interest due on stock remains unpaid for three months after demand in writing, the person entitled thereto may, without prejudice to any other remedy, apply to the High Court for a receiver to be appointed, and the Court may appoint a receiver on such terms as it thinks fit.

(2) The Court may confer on the receiver any of the powers of collecting, receiving and recovering the revenues of the Authority which are conferred upon the Authority by this Act, and any of the powers of imposing and levying rates and taxes and imposing and recovering dues and cesses which are conferred on the Governor in Council by this Act.

#### **21. Regulations**

Subject to the provisions of this Act, the Member may make regulations prescribing anything required to be prescribed by this Act and generally for carrying out the provisions of this Act.

**22. Savings**

Nothing in this Act shall—

- (a) prejudice or affect the rights of Government, or of any body or bodies politic or corporate or other person or persons excepting only such as are mentioned in this Act and those claiming by, from or under them;
- (b) prejudice or affect the priority of any security for a loan created by any local authority before the commencement of this Act.

[Act No. 21 of 1966, First Sch.]

*Local Government Loans*

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