
**LOCAL AUTHORITIES
LOANS ACT, 1997**

(Act No. VI of Svt. 1997)

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(1940 A. D.)**

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[Received the assent of His Highness the Maharaja Bahadur on 31st May, 1940/19th Jeth, 1997 and published in the Government Gazette dated 4th Sawan, 1997.]

Preamble.—Whereas it is expedient to make provision enabling local authorities to raise Loans ; it is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Local Authorities Loans Act, 1997.

(2) It extend to the whole of Jammu and Kashmir State.

2. *Definitions.*—In this Act,—

“local authority” means any person legally entitled to the control or management of any local or Muunicipal 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 mangement 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 any other work or not.

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 prortion thereof for any the following purposes, namely :—

- (i) the carrying out of any works which it is legally authorised to carry out ;
- (ii) the giving of relief and the establishment and maintenance of relief works in times of famine, scarcity or any other calamity ;

- (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 clause (ii) and (iii) ;
- (v) the repayment of money previously borrowed in accordance with law :

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 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 being in force.

(2) Nothing in this section shall be deemed to authorise 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 authorised 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 of Government to make rules.*—(1) The Government may make rules consistent with this Act as to—

- (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 premission to borrow money ;
- (iv) the inquiries to be in relation to such loans, and the manner of conducting such enquiries ;
- (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 Government may make loans ;

- (vii) the cases in which a local authority may take loans from persons other than the 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 loan as costs in effecting the loans ;
- (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 utilisation of unexpended balance 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 authorised to carry out ; and the sanction necessary to such utilisation ;

and as to all other matters incidental to carrying this Act into effect.

(2) All rules made under this Act shall be published in the Government 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 Government, if itself the lender may, and, if the 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 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 charges legally made.—Provided that, no such attachment shall defeat or prejudice any debt 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, V of 1923, a local authority may, with the previous sanction of the 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 Government to borrow.

(2) The 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.
