

LOCAL GOVERNMENT LOANS BOARD AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Local Government Loans Board Act 1926.

That Act at present provides that local authorities are not to borrow money except with the consent of the Governor-General given by Order in Council after the sanction of the Local Government Loans Board has been given to the loan. The terms and conditions of the loan are specified in the Order in Council, and generally follow the terms and conditions as fixed by the Board in the first instance in giving its sanction. Any variations required in the terms and conditions can be effected only by subsequent Orders in Council.

The main purpose of this Bill is to give the Local Government Loans Board authority to determine the terms and conditions of loans and, with the approval of the Minister of Finance, to vary them from time to time. This will make it unnecessary to specify the terms and conditions in the consenting Order in Council, and will also make it unnecessary to issue an amending Order in Council whenever the terms and conditions are varied.

The Act is to come into force on 1 November 1954.

Clause 2 makes the Commissioner of Works a member of the Board, instead of the Engineer-in-Chief of the Ministry of Works.

Clause 3 empowers the Local Government Loans Board, in relation to any loan, to determine the terms and conditions (as to time of borrowing, term of the loan, rate of interest, repayment, and other matters), and, with the approval of the Minister of Finance, to vary the terms and conditions from time to time. The Minister of Finance is to fix from time to time the maximum rate of interest that may be determined by the Board, and no variation of the terms and conditions is to prejudice the security of the lenders of any money already borrowed.

Clause 3 also provides that the Board is to notify the applicant local authority of the Board's decision with respect to the local authority's application for sanction to a loan and of every decision of the Board in relation to the terms and conditions of the loan. Where any such notification purporting to be signed by any person as secretary or acting secretary of the Board is given, no person is to be concerned to inquire whether the decisions specified therein have been duly made. This latter provision is necessary (as well as *clause 6* of the Bill) because the Order in Council consenting to the loan will not in future specify the terms and conditions of the loan, and accordingly will not be conclusive proof of the right of the local authority to borrow in accordance with those terms and conditions.

Clause 4 enables the Board to delegate its powers of variation to the Secretary to the Treasury, to be exercised by him in accordance with the directions of the Board.

Clause 5 provides that where a local authority has obtained the consent of the Governor-General in Council to the borrowing of any money, it must not borrow it except in accordance with the sanction of the Board and the terms and conditions for the time being determined by the Board.

Clause 6 provides that a certificate by a local authority stating that it has duly taken all proceedings required to be taken by it under the principal Act or any other Act in connection with the raising of any loan shall, as between the lender and the local authority, be conclusive proof of that fact. A copy of any such certificate set out in a loan prospectus or in a letter from the local authority is to have the same effect as the original certificate.

Clause 7 specifies the types of loans to which the principal Act is not to apply, including certain cases where money that has been expended for a local authority is repayable by instalments. In all these cases, by virtue of amendments made by *clause 8*, the terms and conditions of repayment are to be determined by the Minister of Finance.

Clause 8 makes various consequential amendments, as set out in the Schedule.

Hon. Mr Bowden

LOCAL GOVERNMENT LOANS BOARD AMENDMENT

ANALYSIS

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1. Short Title and commencement.	6. Certificate by local authority that proceedings duly taken.
2. Commissioner of Works to be member of Board.	7. Limitation of application of Act.
3. Board to fix conditions of loans.	8. Consequential amendments and savings.
4. Delegation of certain powers by Board.	Schedule.

A BILL INTITULED

AN ACT to amend the Local Government Loans Board Act 1926. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. (1) This Act may be cited as the Local Government Loans Board Amendment Act 1954, and shall be read together with and deemed part of the Local Government Loans Board Act 1926 (hereinafter referred to as the principal Act). Short Title and commencement. See Reprint of Statutes, Vol. V, p. 415

(2) This Act shall come into force on the first day of November, nineteen hundred and fifty-four.

2. Section four of the principal Act is hereby amended by repealing paragraph (a) of subsection one, and substituting the following paragraph: Commissioner of Works to be member of Board.

2 *Local Government Loans Board Amendment*

“(a) The officers for the time being holding in the Public Service the offices of Secretary to the Treasury and Commissioner of Works:”.

Board to fix conditions of loans.

3. Section six of the principal Act is hereby amended by repealing subsection two, and substituting the following subsections: 5

“(2) Without limiting the generality of the powers conferred by subsection one of this section, it is hereby declared that the Board may, in exercise of its powers conferred by paragraph (a) of that subsection in relation to any loan, determine— 10

“(a) The time at which the money may be borrowed:

“(b) The term for which it may be borrowed:

“(c) The rate of interest that may be paid in respect thereof: 15

“(d) The provisions for repayment thereof:

“(e) Any other matters in connection with the borrowing and repayment of the loan money— 20

and, notwithstanding anything contained in any authority given by ratepayers or in any special order or resolution of the local authority, the Board, with the approval of the Minister of Finance, may at any time and from time to time vary or modify in such manner and to such extent as it thinks fit, or cancel or add to any such determination: 25

“Provided that the Board shall not in any case determine a rate of interest in excess of the maximum rate determined for the time being by the Minister of Finance for the purposes of this section: 30

“Provided also that nothing in any such variation, modification, or cancellation of or addition to any such determination shall in any way affect the security of the lenders of any money theretofore borrowed, or require the local authority again to obtain the authority of the ratepayers or to make a further special order. 35

“(2A) The Board shall duly notify the applicant local authority of every decision made by the Board (with the approval of the Minister of Finance where required by this section) with respect to the local authority’s application or in relation to the loan. 40

“(2B) Where any such notification purporting to be signed by any person as secretary or acting secretary of the Board is given, no person shall be concerned to inquire whether the decisions specified therein have been duly
5 made by the Board or, as the case may be, by the Secretary to the Treasury acting pursuant to a delegation under section *four B* of this Act, or whether, where required by this section, the decisions have been made with the approval of the Minister of Finance.”

10 4. The principal Act is hereby amended by inserting, after section *four A* (as inserted by subsection one of section ten of the Fees and Travelling Allowances Act 1951), the following section:

Delegation of certain powers by Board.
1951, No. 79

15 “4B. (1) The Board may from time to time delegate to the Secretary to the Treasury all or any of its powers to vary, modify, cancel, or add to any determination made under paragraph (*a*) of subsection one of section six of this Act as extended by subsection *two* of that section.

20 “(2) Subject to any general or special directions given or conditions attached by the Board, the Secretary to the Treasury may exercise the powers delegated to him under this section in the same manner and with the same effect as if they had been conferred on him directly
25 by this section and not by delegation.

“(3) The Secretary to the Treasury, while purporting to act pursuant to any delegation under this section, shall be presumed to be acting in accordance with the terms of the delegation.

30 “(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Board.”

5. The principal Act is hereby amended by repealing section eleven, as substituted by subsection one of section
35 twenty-nine of the Finance Act 1932 (No. 2), and substituting the following section:

Conditions applicable to borrowing of money.
1932, No. 30

40 “11. (1) Where the consent of the Governor-General in Council has been given under this Act to the borrowing of any money, it shall not be lawful for the local authority to borrow any of the money save in accordance with the sanction of the Board and with the terms,

conditions, and stipulations for the time being determined by the Board in respect of the loan under section six of this Act.

See Reprint of Statutes, Vol. V, p. 360

“(2) Nothing in any provision of the Local Bodies’ Loans Act 1926 or any other Act relating to rates of interest at which local authorities within the meaning of this Act may borrow money, or to the term for which any such money may be borrowed, or prescribing the manner and conditions of repayment thereof, shall have any application to the borrowing of any money where that borrowing is subject to the provisions of this Act.” 5 10

Certificate by local authority that proceedings duly taken.

6. The principal Act is hereby amended by inserting, after section eleven (as substituted by section *five* of this Act), the following section:

“11A. (1) A certificate under the seal of a local authority, purporting to be given pursuant to a resolution of the local authority, to the effect that the local authority has duly taken all proceedings required to be taken by it under this or any other Act in connection with the raising of any loan shall, as between the lender and the local authority, be conclusive proof for all purposes of that fact. 15 20

“(2) Where a prospectus issued by a local authority in connection with any loan, or a letter from a local authority referring to any loan, contains what purports to be a copy of any such certificate in relation to the loan, the prospectus or letter shall, as between the lender and the local authority, be conclusive proof for all purposes of the fact stated in that copy.” 25

Limitation of application of Act.

7. The principal Act is hereby amended by repealing section twelve, and substituting the following section: 30

“12. Nothing in this Act shall apply with respect to—

1941, No. 12

“(a) Money to be paid by a local authority as provided in subsection four of section twenty-four of the Soil Conservation and Rivers Control Act 1941: 35

“(b) Loans made to local authorities under section thirty of the Soil Conservation and Rivers Control Act 1941:

1944, No. 31

“(c) Money to be paid by a local authority as provided in subsection five of section thirty-one of the Finance Act (No. 3) 1944: 40

“(d) The borrowing of money from the Crown by the governing body of a University college under section twenty of the Education Amendment Act 1948:

5 “(e) The expenditure of money by the Fire Service Council under section forty-nine of the Fire Services Act 1949: 1949, No. 18

10 “(f) The borrowing of money from the Crown by the Massey Agricultural College Council under section eighteen of the Massey Agricultural College Act 1952: 1952, No. 11

“(g) Loans made to local authorities under section thirty-eight of the National Roads Act 1953: 1953, No. 118

15 “(h) Money to be paid by a local authority as provided in paragraph (b) of subsection five of section thirty-eight of the National Roads Act 1953.”

8. (1) The enactments specified in the Schedule to this Act are hereby consequentially amended in the 20 manner indicated in that Schedule. Consequential amendments and savings.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under 25 the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done 30 under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done. See Reprint of Statutes, Vol. VIII, p. 568

SCHEDULE

Schedule.

CONSEQUENTIAL AMENDMENTS

Title of Act	Nature of Amendment
1926, No. 14— The Local Bodies' Loans Act 1926 (Reprint of Statutes, Vol. V, p. 360)	By omitting from paragraph (<i>d</i>) of the proviso to subsection (4) of section 9 (as substituted by section 3 of the Local Bodies' Loans Amendment Act 1951) the words "and which by virtue of section twelve of the Local Government Loans Board Act 1926 do not require the sanction of the Local Government Loans Board", and substituting the words "for the purpose of meeting its liability in respect of an adjustment of property, liabilities, contracts, and engagements between it and any other local authority, or for the purpose of meeting any other liabilities imposed on it by or pursuant to any Act". By repealing subsection (3) of section 31, as amended by paragraph (<i>b</i>) of subsection (1) of section 28 of the Finance Act 1932-33 (No. 2), and substituting the following subsection: “(3) No new debentures shall be issued under this section otherwise than in conformity with the terms of the authority for the raising of the special loan and in accordance with the sanction of the Local Government Loans Board and with the terms, conditions and stipulations for the time being determined by the Board in respect of the loan.” By repealing sections 114 and 115.
1932, No. 11— The Finance Act 1932	By repealing section 65.
1932, No. 30— The Finance Act 1932 (No. 2)	By repealing section 29.
1932-33, No. 45— The Finance Act 1932-33 (No. 2)	By repealing paragraph (<i>b</i>) of subsection (1) and subsection (2) of section 28.
1933, No. 14— The Local Authorities Interest Reduction and Loans Conversion Amend- ment Act 1933	By omitting from subsection (1) of section 8 the words "by Order in Council under section eleven of", and substituting the word "under". By omitting from subsection (2) of section 8 the words "section eleven of".

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SCHEDULE—*continued*

Title of Act	Nature of Amendment
<p>1934, No. 27— The Local Authorities Interest Reduction and Loans Conversion Amend- ment Act 1934</p>	<p>By omitting from subsection (2) of section 8 the words “section eleven of”, and also the words “(as appearing in section twenty-nine of the Finance Act 1932 (No. 2))”.</p> <p>By repealing subsection (3) of section 8.</p> <p>By omitting from the proviso to subsection (1) of section 9 the words “the Governor-General in Council, by the said section eleven”, and substituting the words “the Local Government Loans Board by section six of that Act”.</p> <p>By omitting from subsection (2) of section 9 the words “except in accordance with the provisions of an Order in Council that may be made under the said section after the passing of this Act”, and substituting the words “without again complying with the provisions of the Local Government Loans Board Act 1926”.</p>
<p>1938, No. 13— The Finance Act 1938</p>	<p>By omitting from subsection (4) of section 33 (as substituted by section 38 of the Finance Act (No. 2) 1939) the words “shall, for the purposes of the Local Government Loans Board Act 1926, be deemed to be moneys borrowed by the local authority for the purpose of meeting a liability to which section twelve of that Act applies”, and substituting the words “shall be paid upon and subject to such terms and conditions as the Minister of Finance thinks fit”.</p>
<p>1941, No. 12— The Soil Conservation and Rivers Control Act 1941</p>	<p>By omitting from subsection (4) of section 24 the words “for the purposes of the Local Government Loans Board Act 1926 be deemed to be moneys borrowed by the local authority for the purpose of meeting a liability to which section twelve of that Act applies”, and substituting the words “be paid upon and subject to such terms and conditions as the Minister of Finance thinks fit”.</p> <p>By adding to subsection (2) of section 30 the following proviso: “Provided that any loan to a local authority within the meaning of the Local Government Loans Board Act 1926 shall be made only upon and subject to such terms and conditions as the Minister of Finance thinks fit.”</p>

8 *Local Government Loans Board Amendment*

SCHEDULE—*continued*

Title of Act	Nature of Amendment
1944, No. 25— The Statutes Amendment Act 1944	By repealing subsection (2) of section 17.
1944, No. 31— The Finance Act (No. 3) 1944	By omitting from subsection (5) of section 31 the words “shall, for the purposes of the Local Government Loans Board Act 1926, be deemed to be moneys borrowed by the local authority for the purpose of meeting a liability to which section twelve of that Act applies”, and substituting the words “shall be paid upon and subject to such terms and conditions as the Minister of Finance thinks fit”.
1948, No. 68— The Education Amendment Act 1948	By inserting in paragraph (d) of subsection (2) of section 20, before the words “Borrow money”, the words “With the consent of the Minister of Education”.
1949, No. 18— The Fire Services Act 1949	By repealing subsection (3) of section 20. By omitting from section 49 the words “over such period (not exceeding ten years) as the Council thinks fit”, and substituting the words “upon and subject to such terms and conditions as the Minister of Finance thinks fit”.
1949, No. 43— The Licensing Trusts Act 1949	By repealing subsection (9) of section 37A (as inserted by section 3 of the Licensing Trusts Amendment Act 1951), and substituting the following subsection: “(9) The borrowing of moneys under the authority of subsection eight of this section shall for the purposes of the Local Bodies’ Loans Act 1926 be deemed to be borrowing by the local authority for the purpose of meeting liabilities imposed on it by this Act.”
1950, No. 34— The Harbours Act 1950	By repealing section 66. By omitting from subsection (4) of section 80 the words “section one hundred and fourteen of the Local Bodies’ Loans Act 1926 or section eleven of the Local Government Loans Board Act 1926 (as set out in section twenty-nine of the Finance Act 1932 (No. 2))”, and substituting the words “section six of the Local Government Loans Board Act 1926”.

SCHEDULE—*continued*

Title of Act	Nature of Amendment
1950, No. 62— The Noxious Weeds Act 1950	By omitting from subsection (2) of section 24 the words “by the Governor-General in Council under section eleven of the Local Government Loans Board Act 1926 (as set out in section twenty-nine of the Finance Act 1932 (No. 2))”, and substituting the words “under the Local Government Loans Board Act 1926”.
1952, No. 74— The Electric Power Boards Amendment Act 1952	By omitting from subsection (4) of section 5 the words “for the purpose of meeting a liability to which section twelve of that Act applies”.
1953, No. 118— The National Roads Act 1953	By omitting from paragraph (a) of subsection (5) of section 38 the words “Any moneys advanced by the Board and accepted by a local authority under this section shall, for the purposes of the Local Government Loans Board Act 1926, be deemed to be moneys borrowed by the local authority for the purpose of meeting liabilities imposed on it by this Act”. By omitting from paragraph (b) of subsection (5) of section 38 the words “shall, for the purposes of the Local Government Loans Board Act 1926 be deemed to be moneys borrowed by the local authority for the purpose of meeting liabilities imposed on it by this Act”, and substituting the words “shall be paid upon and subject to such terms and conditions as the Minister of Finance thinks fit”.