

CHAPTER 311

LOAN BOARD

Ordinances AN ORDINANCE TO PROVIDE FOR THE CONSTITUTION AND MANAGEMENT OF THE LOAN BOARD AND TO MAKE CERTAIN UNCLAIMED BALANCES AVAILABLE FOR CERTAIN PUBLIC PURPOSES.

Acts Nos. 2 of 1950, 5 of 1952,

Law No. 33 of 1973.

[1st July. 1866.]

Short title. 1. This Ordinance may be cited as the Loan Board Ordinance.

Finance may from time to time, direct to be paid out of the Consolidated Fund to such commissioners, secretary, clerks, and officers as aforesaid, such salaries or remuneration as to him shall appear reasonable.

LOAN BOARD AND OFFICERS

Minister to appoint Commissioners of Loan Board. 2. It shall be lawful for the Minister, from time to time as occasion may require, to appoint three or more fit and proper persons to be the Commissioners of the Loan Board, and to nominate one of them to be the Chief Commissioner; and they shall hold office during pleasure, and exercise the duties and powers hereby conferred on them.

MEETINGS OF LOAN BOARD

6. Meetings of the commissioners for the despatch of business shall be held, and special meetings shall be convened at such times and with such notice to the commissioners as shall be fixed by general rules made under section 9. Meetings of commissioners.

Commissioners to appoint secretary, clerks, &c. 3. The commissioners may, with the prior approval of the Minister in charge of the subject of Finance, appoint a secretary and such number of other officers as may be necessary to assist them in the execution of the duties and powers hereby conferred on them.

7. The Chief Commissioner shall be the chairman of such meeting. In his absence it shall be competent to the commissioners to elect one of their own body. Chairman.

Treasurer. 4. The Deputy Secretary to the Treasury shall be the treasurer of the Loan Board, provided, however, that nothing herein contained shall prevent the Deputy Secretary to the Treasury being appointed a commissioner in addition.

8. All acts whatsoever authorized or required by virtue of this Ordinance to be done by the Loan Board may and shall be done and decided by the majority of the commissioners, such number not being less than two. When the votes of the commissioners present in regard to any question shall be equally divided, the chairman, besides his vote as a commissioner, shall have a casting vote. Majority to decide. Quorum.

Salaries. 5. The Minister with the concurrence of the Minister in charge of the subject of

Casting vote.

**RULES AND REGULATIONS**

Commissioners may make rules and regulations.

**9.** It shall be lawful for the commissioners to make such rules and regulations as they may deem expedient for any of the following purposes :—

- (a) for regulating the meetings and proceedings of the commissioners;
- (b) for determining the securities upon which loans are to be made and the charges payable by borrowers;
- (c) for determining the rates of interest on loans and deposits ;
- (d) for determining the distribution of interest realized upon the loans;
- (e) for regulating the books and forms of accounts to be kept and rendered ;
- (f) for providing for every other matter not herein specially provided for, but necessary for the due regulation of the board and the funds thereof;

Provided that such rules and regulations be not repugnant to or inconsistent with any of the provisions of this Ordinance, and that copies thereof with all convenient speed be transmitted to the Minister for the approval, amendment, or disallowance thereof by the Minister; and the said rules so approved or amended shall thereupon become as legal, valid, and effectual as if the same had been inserted herein.

**GENERAL PROVISIONS**

Commissioners to be trustees.

**\*11.** All moneys and estate forming at present the funds of the Loan Board, and which are invested by or in the name of the Registrar of the Supreme Court, or lying in deposit subject to the disposal of the Loan Board, or which are vested in, due to, or in any way within the power or under the control of either of them, shall be deemed to be vested in the said Commissioners of the

Loan Board hereunder appointed in trust for the use of the persons who shall be entitled to the same, and for the uses, ends, and purposes further in this Ordinance provided and declared.

**12.** (1) It shall be lawful for (he said commissioners from time to time to lend out at interest all such moneys hereby vested in them as trustees as aforesaid, or which may have been or may hereafter be transmitted by or from or on account of the several courts and Judges of Sri Lanka to the Treasury, subject to such rules and regulations regarding investment, security, change of securities, interest, conditions, and administration as they may from time to time make as herein provided.

Commissioners. to invest suitors' funds, subject to certain rules.

(2) When the commissioners receive payment of the whole or any part of the amount due in respect of any loan granted by them on the security of a mortgage of any property, the writing or instrument for effecting, as the case may be, the discharge of the mortgage bond or the release of any part of the property from any liability under that bond, may, notwithstanding anything contained in section 8, be executed either by the Chief Commissioner and one other of the commissioners or by the Chief Commissioner and the person for the time being holding the office of secretary of the Loan Board; and every writing or instrument so executed shall be as valid and effectual for all purposes as if it had been executed by each and every one of the commissioners.

**13.** The commissioners hereby appointed shall be entitled to sue upon all bonds, obligations, mortgages, and securities, and all contracts whatever heretofore granted to or made by the Loan Board or the Registrar of the Supreme Court on behalf of the Loan Board, and to recover the same, and to appear in all suits or proceedings already commenced or taken in which the Loan Board or the said Registrar is interested, for and on behalf of the Loan Board ; and all bonds, obligations, mortgages, and all contracts whatsoever to, by, or with the commissioners hereunder appointed, and all suits and actions by or

Commissioners to sue and be sued

\* Section 10 is omitted, as it is a transitory provision, which has taken effect.

against the said commissioners, shall be made to, by, or with them, and shall be instituted by or against them, under the name of " The Commissioners of the Loan Board ", without specifying the names of the individual commissioners or any of them; and no action shall abate by reason of the death, removal, resignation, incapacity, or going out of office of any of them ; and the service of all process in any suit or action against the said commissioners shall be made on the secretary.

month, process of parate execution against the body and effects of such person; and every such court is hereby authorized and directed on the application of the said commissioners, verified by affidavit of any commissioners swearing to the existence of the obligation and default, forthwith, and without further notice or delay, to issue such process.

Duty of Board to keep books of account. [§ 2, Law 33 of 1973.]

14. (1) The Commissioners of the Loan Board shall from time to time order and direct a book or books to be kept, in which shall be entered true and regular accounts in respect of each financial year, of all sums of money received, paid and expended by the Loan Board, or due to the Loan Board, and of the several articles, matters and things in respect of which sums of money shall have been disbursed, in such form and manner as may be prescribed by the rules and regulations made in that behalf under section 9 of the Ordinance.

17. (1) Where in a hypothecary action an order is made that any property mortgaged to the commissioners shall be sold, the commissioners may purchase the mortgaged property or any part thereof in the same manner and subject to the same restrictions and conditions as may other mortgagees in similar circumstances.

Power of commissioners to purchase property.

(2) All property so purchased shall be conveyed to the commissioners as such, and it shall not be necessary to mention the names of the commissioners in the conveyance, and after such conveyance the property shall vest in the commissioners from time to time without any further conveyance or transfer.

(2) The financial year of the Loan Board shall be the period of twelve months commencing on the first day of January of each year.

(3) The commissioners shall hold property so purchased by them upon trust to sell the same as and when, in their opinion, a sale shall be beneficial and until sale shall have full power to manage the property and expend money thereon and to let the same.

Power of Auditor-General to audit accounts. [§ 3, Law 33 of 1973].

15. All accounts of the Loan Board kept under section 14 or otherwise shall be subject to audit by the Auditor-General, who shall have the power at all times, by himself or by any person appointed by him in writing, to inspect all books and documents of accounts, and to call for the production of all mortgage bonds, contracts, vouchers and documents of whatever nature necessary for the verification of such accounts.

(4) All conveyances on sale, leases, agreements, and other documents relating to property so purchased by the commissioners may be executed by the Chief Commissioner and either the secretary of the Loan Board for the time being or at least one other commissioner, and the conveyances on sale, leases, agreements, and other documents so executed shall be as valid and effectual as if they had been executed by each and every of the said commissioners.

Parate execution.

16. It shall be lawful for the Commissioners of the Loan Board to sue out from any court having jurisdiction over the person or effects of any person who now owes or may hereafter owe money to the Loan Board, and who shall not repay the principal amount at the period by his obligation stipulated, in one month after demand made in writing by or in the name of the said commissioners, or shall make default in the payment of the stipulated interest, due on the same for more than one

(5) All purchases hitherto made by the commissioners of properties mortgaged to them are hereby declared to be as valid and effective for all intents and purposes as if this section had been in force at the time of such purchase, and the properties so purchased shall vest in the commissioners from time to time without any further conveyance or transfer and shall be subject to the provisions of subsection (3) of this section.

Reimbursement of expenses borne by the Government. [§ 4, Law 33 of 1973.]

**18.** Out of the aggregate interest due to the Loan Board at the end of each financial year, from the investments made under section 12, the commissioners shall pay to the Government of the Republic, in respect of each such financial year, a sum equal to the amount for the time being approved by the Minister and the Minister in charge of the subject of Finance as the equivalent of, or the nearest approximation to, the aggregate expenses incurred or borne by that Government in connexion with the management of the affairs of the Board.

Agents to transmit moneys to the Treasury.

**\*19.** At the end of every month the Government Agent of each administrative district in Sri Lanka shall transmit to the Treasury at Colombo the balance, if any, which at the end of every such month shall be in his hands to the credit of each and every District Court within his district, or if such balance be in favour of such Government Agent in account with any of the District Courts within his district, he shall then draw upon the said Treasury for the amount of such balance; and all suitors and other persons entitled to the moneys so transmitted to the Treasury shall be entitled to the same advantages and interest, subject to the same conditions as the moneys now under the administration of the Loan Board are entitled and subject to, or to which they shall become entitled and subject by any rules and regulations to be made as herein provided.

Disposal of moneys long unclaimed.

**20.** Whereas certain moneys heretofore administered by the Loan Board have been in deposit for very long periods of time and no claims have been preferred to them, and the retention of them in the books and accounts of the board is productive of much inconvenience, it is enacted as follows:—

- (1) If any sum of money, not being less than one hundred rupees, now or which may hereafter come under the administration of the Loan Board shall have been in deposit to the credit of any person or estate, and shall not have been claimed by any person having a just and lawful right thereto for the period of thirty

years next succeeding the date of the last deposit (other than a deposit made by the commissioners on account of interest), or the last withdrawal authorized in that case by the order of a competent court, or having been claimed, such claim shall have been abandoned, withdrawn, or not prosecuted within one year from the date of claim, or if such claim has been set aside, then and in every such case every account with such person or estate shall be closed, and all such money shall, owing to the lapse of such period, become the property of the State, and shall be paid over by the Commissioners of the Loan Board to the Deputy Secretary to the Treasury, to be carried to the account of the Consolidated Fund :

Provided, however, that in any case where any money subject to a trust or belonging to a minor or to a person adjudged to be of unsound mind, is so carried to the account of the Consolidated Fund, if any person at any time thereafter establishes a claim to the whole or any part of such money to the satisfaction of the court, the Minister with the concurrence of the Minister in charge of the subject of Finance may authorize the payment to that person, out of the Consolidated Fund, of such sum, not exceeding the amount which was carried in that case to the account of the Consolidated Fund, as may be specified in the order made by the court upon that claim.

- (2) If any sum of money, being less than one hundred rupees, now or which may hereafter come under the administration of the Loan Board shall have been in deposit to the credit of any person or estate, and shall not have been claimed by any person having just and lawful right thereto for ten years from the date of the last deposit, or the last withdrawal authorized in that case

\* Section 19 has become inoperative resulting from the introduction of the new sections 296 and 297 of the Civil Procedure Code by Law No. 20 of 1977.

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by the order of a competent court, or having been claimed, such claim shall have been abandoned, withdrawn, or not prosecuted within one year from the date of claim, or if such claim has been set aside, then and in every such case every account with such person or estate shall be closed ; and all such money shall, owing to the lapse of time, be paid over by the Commissioners of the Loan Board to the Deputy Secretary to the Treasury, to be carried to the account of the Consolidated Fund :

Provided, however, that in any case where any person makes a claim to the whole or any part of such money within the period of twenty years next succeeding the date on which the money is so carried to the account of the Consolidated Fund and establishes such claim to the satisfaction of the court, such sum, not exceeding the amount so carried to the account of the Consolidated Fund, as may be specified in the order made by the court upon that claim, may be paid to that person out of the Consolidated Fund;

Provided further, that in any case where any money subject to a trust

or belonging to a minor or to a person adjudged to be of unsound mind, is so carried to the account of the Consolidated Fund, if any person, even after the period of twenty years next succeeding the date on which the money is so carried to the account of the Consolidated Fund, establishes to the satisfaction of the court a claim to the whole or any part of such money the Minister with the concurrence of the Minister in charge of the subject of Finance may authorize the payment to that person, out of the Consolidated Fund, of such sum, not exceeding the amount so carried to the account of the Consolidated Fund, as may be specified in the order made by the court upon that claim.

(3) Every claim under the foregoing provisions of this section shall be made by way of summary procedure, under Chapter XXIV of the Civil Procedure Code, in the action to the credit of which the money is in deposit immediately before it is carried to the account of the Consolidated Fund, and the Attorney-General and all persons known to have any interest in or claim to such money shall be made parties to the application.

**21.** Nothing herein contained shall be deemed to affect the liability of the Loan Board to account to the different courts for the moneys placed in deposit by the orders of such courts, or to conform to and comply with such orders as it has heretofore done.

Nothing herein to affect liability of board to account to courts or to execute its orders