

**CHAPTER 312**

**LOCAL LOANS**

*Ordinances* AN ORDINANCE TO PROVIDE FACILITIES FOR THE GRANTING OF LOANS FOR LOCAL  
Nos. 22 of 1916, PURPOSES OF PUBLIC UTILITY.

6 of 1930,  
25 of 1931,  
43 of 1938,  
21 of 1942,

*Act*  
No. 29 of 1949,

*Law*  
No. 9 of 1974.

[5th August, 1916.]

Short title. **1.** This Ordinance may be cited as the Local Loans and Development Ordinance.

Commissioners. **2.** (1) For the purposes of this Ordinance the Minister may appoint a board of commissioners to be called "The Local Loans and Development Commissioners" (hereinafter referred to as "the commissioners").

[§ 2, Law 9 of 1974.] (2) The commissioners shall consist of at least five persons all of whom shall be appointed by the Minister, and—

- (a) one of whom shall be the Secretary to the Ministry who shall also be the Chairman thereof;
- (b) another of whom shall be the Commissioner of Local Government;
- (c) another of whom shall be a public officer nominated for such appointment, by name or by office, by the Minister or Ministers in charge of the subjects of Irrigation, Power and Highways ; and
- (d) another of whom shall be a public officer nominated for such appointment, by name or by office, by the Minister in charge of the subject of Finance.

(3) The commissioners from time to time so appointed, including all persons appointed to fill temporary and casual vacancies, shall constitute a body corporate,

and shall have perpetual succession and a common seal, and may sue and be sued in the name of "The Local Loans and Development Commissioners".

**3.** (1) The commissioners may from Staff. time to time appoint or employ a secretary, and such number of professional, clerical, or other officers as they may, with the consent of the Minister, deem necessary, and may from time to time assign to any persons so appointed or employed by them such salary or remuneration as they, with the sanction of the Minister given with the concurrence of the Minister in charge of the subject of Finance, may think proper.

(2) No commissioner shall receive any remuneration in consideration of the discharge of his duties:

Provided that nothing in this subsection contained shall preclude any commissioner from receiving such travelling allowance or other expenses as may be sanctioned by regulations made under this Ordinance.

**4.** It shall be the duty of the Duty of commissioners out of the fund provided by commissioners. this Ordinance from time to time, in accordance with the provisions of this Ordinance, to make loans for any of the purposes thereby authorized, on such terms as to security and repayment and otherwise as they may determine.

**5.** (1) The Minister may by Order Assignment of existing loans. published in the Gazette assign to the commissioners any loan already granted by the Government to any person, society, or [§ 3. Law 9 of 1974.]

body of persons, or to any local authority, including any loan converted under section 30 of this Ordinance, and thereupon all sums due in respect of the said loans shall become payable to the commissioners on the same terms and conditions as those on which prior to such assignment they were payable to the Government, and all securities for the payment of such sums shall be enforceable in the same manner as if they had been given in respect of a loan under this Ordinance.

(2) Every such loan shall for the purposes of this Ordinance be deemed to be a loan under this Ordinance.

Commissioners may obtain loans from Consolidated Fund, banks, &c. [§ 4, Law 9 of 1974.]

**6.** (1) The commissioners may, with the consent of the Minister, given with the concurrence of the Minister in charge of the subject of Finance, obtain loans from—

- (a) the Consolidated Fund ; or
  - (b) any commercial bank; or
  - (c) any Government-sponsored lending institution; or
- any local authority,

upon such terms as to the mode and time of payment and to the interest payable thereon as the Minister may, with like concurrence, determine.

(2) The total amount of the loans obtained under subsection (1) shall not exceed such limit as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, fix from time to time.

Constitution of fund.

**\*8.** (1) For the purpose of this Ordinance there shall be constituted a fund to be called \*'The Local Loans and Development Fund " (hereinafter referred to as " the fund ").

(2) There shall be paid into the fund—

- (a) all such sums as may be appropriated to the fund by enactment or by resolution of Parliament:

- (b) all sums from time to time falling due in respect of any loan under this Ordinance;
- (c) all such sums as may be lent to the commissioners under this Ordinance or any other written law;
- (d) all other sums which may in any other manner become payable to the commissioners in respect of any matter incidental to their powers and duties under this Ordinance.

(3) There shall be paid out of such fund—

- (a) all such loans as may be granted by the commissioners;
- (b) all such sums in the way of contribution to the revenue of Sri Lanka as may from time to time be ordered by the Minister;
- (bb) all expenses incurred by the commissioners with the approval of the Minister in the administration of this Ordinance;
- (c) all such sums as may from time to time be payable, by way of principal or interest, on sums lent to the commissioners under this Ordinance or any other written law.

[§ 6, Law 9 of 1974-]

**9.** The commissioners may, with the approval of the Minister, grant loans for the following purposes:—

- (a) to any local authority for the purpose of any work of public utility which such authority may be authorized by law to undertake; and
- (b) to any person or body for any purpose of public utility.

Purposes for which loans may be granted. [§ 7, Law 9 of 1974.]

**10.** Every loan to a local authority under this Ordinance shall be subject to the limits of the borrowing powers of such local authority under any general or other enactment regulating its powers and duties,

Limits of borrowing powers.

• Section 7 is repealed by Law No. 9 of 1974.

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and for the purpose of the application of the said limits a loan under this Ordinance shall be deemed to be raised under the authority of such enactment.

Regulations.

**11.** The commissioners, subject to the approval of the Minister, may make regulations for the following purposes :—

- (a) the proceedings of the board and the transaction of its business ;
- (b) the custody and use of its common seal and the manner in which documents shall be executed on its behalf;
- (c) the duties of its staff;
- (d) the conditions as to interest, security, repayment, or otherwise on which loans shall be granted ;
- (e) generally for the exercise of its powers and the discharge of its duties under this Ordinance.

Minutes and proceedings.

**12.** (1) Any minute made of proceedings at meetings of the commissioners, if signed by any person purporting to be the chairman, either of the meeting of the commissioners at which such proceedings took place, or of the next ensuing meeting of the commissioners, shall be receivable in evidence in all legal proceedings, without further proof, and until the contrary is proved every meeting of the commissioners, in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified to act.

(2) An act or proceeding of the commissioners shall not be questioned on account of any vacancy or vacancies in their body.

Report.

**13.** (1) The commissioners shall annually cause to be made out for every financial year a report of their transactions under this Ordinance during the year.

(2) Every such report shall contain such particulars as the Minister may direct, and shall be published for general information in such manner as he may think fit.

**14.** The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the board of commissioners-

Application of the provisions of the Public Corporations (Financial Control) Act. [§ 8, Law 9 of 1974.]

**14A.** The financial year of the board of commissioners shall be the calendar year.

Financial year of the board of commissioners. (§ 9, Law 9 of 1974.)

**15.** (1) Before advancing any money on account of a loan, the commissioners shall take security for the repayment of the loan with the interest thereon, consisting of—

Security for loans.

- (a) a mortgage of immovable property; or
- (b) a mortgage of any rate or tax, together with (save as hereinafter provided) a personal security.

(2) The commissioners may, if they think fit, dispense with personal security in any case in which in their opinion the mortgaged property or rate is sufficient security for the payment of the principal and interest of the loan within the stipulated period.

(3) The commissioners may, if they think fit, in the case of any society registered or deemed to be registered under the Co-operative Societies Law dispense with any security other than an obligation binding upon the society and its members,

**16.** (1) For the purpose of providing security for any loan under this Ordinance, a local authority may, with the approval of the Minister, mortgage to the commissioners any rate or tax which the authority is by law authorized to make or impose, for such period as may be agreed upon.

Power of local authority to mortgage rate or tax.

(2) Where a loan is granted by the commissioners on the security of a mortgage of any rate or tax, whether with or without any other security, such rate or tax, from and after the date of the mortgage, shall be charged with the payment to the use of the Government of the loan with interest as in the mortgage mentioned.

**17.** Where a loan is granted by the commissioners on the security of a mortgage of any property, whether with or without

Charge on property and priority of loan.

any other security, the property from and after the date of the mortgage shall be charged with the payment to the use of the Government of the loan with interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, over every other debt, mortgage, or charge whatsoever affecting the property, except any loan due to any creditor not assenting to such priority which has been advanced in good faith before the loan advanced by the commissioners and secured by a duly registered mortgage of the property executed to a person who is entitled as a bona fide creditor to the repayment thereof with interest:

Provided that if there is more than one such creditor, and not less than four-fifths in value of such creditors consent in writing that the said charge shall have priority over the loans and mortgages of such creditors, in such case the loans and mortgages of all such creditors, as well those who have not agreed as those who have agreed, shall be postponed to the loan granted by the commissioners and to the said charge thereof, and to the security for the same.

Power where rate or tax in default.

18. (1) Where any loan under this Ordinance is secured by the mortgage of any rate or tax, whether with or without any other security, and default is made in making payment according to the terms of mortgage, it shall be lawful to the Minister, without prejudice to any remedy, to appoint an officer with the powers following :—

- (a) to make any rate or impose any tax which the local authority may make or impose for the purpose of fulfilling its obligations under the mortgage;
- (b) to receive and collect the proceeds of any rate or tax so made or imposed, or made or imposed by the local authority, and to pay such proceeds or so much thereof as the commissioners may require, for the purpose of defraying the amount due under the mortgage.

(2) Every officer so appointed shall have and may exercise the same powers,

authorities, and duties as if he had been appointed by the local authority, and it shall be the duty of all officers of the local authority to give to such officer all such assistance as he may require for the purposes aforesaid.

(3) Every such officer in making an estimate of the rate or tax to be made or imposed under this section may add such sum as he may think sufficient for defraying all costs, charges, and expenses, including remuneration to any officer or other person employed, incurred by such officer in the execution of his powers under this section, or otherwise incurred by the commissioners by reason of the default in payment.

19. Every sum payable to the commissioners in pursuance of any loan under this Ordinance shall be deemed to be payable to the use of the Government, and may be recovered in the same manner as a debt to the State under the State Debtors Ordinance.

Loans by commissioner! a State debt.

20. Where the commissioners grant a loan in aid of any work which is either partly completed or not commenced, they may by a bond to the Government or otherwise take such security for the application of the loan to the work, and for the due completion of the work, including the raising of sufficient funds for that purpose, as they may think sufficient for securing the interest of the public.

Security for completion of works partly finished or not commenced.

21. (1) Where a loan under this Ordinance has been advanced for any purpose on the security of any rate or tax, it shall be the duty of the commissioners to satisfy themselves that the loan is applied to such purpose, and they may from time to time make such examination as they may think necessary with a view to ascertain that such loan has been so applied.

Examination as to proper application of moneys lent.

(2) For the purpose aforesaid the commissioners may appoint any officer to conduct on their behalf any examination under this section, and such officer shall have the same powers to require the attendance of persons and the production of accounts and other documents, so far as such attendance or production is required for the purpose of such examination, as a District Judge has in relation to matters within his jurisdiction.

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Order of  
commissioners  
upon  
examination-

**22.** (1) Where upon any examination made in pursuance of section 21 it appears to the commissioners that any sum being the whole or part of the money raised by the loan has not been applied for the said purpose, the commissioners may order that sum to be, within the time named in the order, applied either for the said purpose or towards the repayment to the commissioners of the principal of the loan, or partly in one of such ways and partly in the other; and further, if it appears to them that the sum or any part thereof has been applied for some purpose other than that for which it was advanced, may by the same or any other order direct a sum equal to the amount so misapplied to be raised within the time and out of the fund, rate, or tax named in the order, and to be applied as directed by the order.

(2) An order made by the commissioners in pursuance of this section may be enforced by writ of mandamus.

Misapplication  
of loan.

**23.** (1) If any loan or any part of any loan advanced under this Ordinance shall be applied to any purpose other than that provided for in the mortgage, the commissioners may, without prejudice to any other remedy provided by this Ordinance, by notice in writing addressed to the mortgagor, recall the said loan or any part thereof, and may require the same, or such part thereof, to be repaid on such date as may be specified in the notice, and any security given for the purpose of the loan shall be enforceable accordingly.

(2) If any mortgagor to whom any loan shall have been advanced under this Ordinance, or any person entrusted, or purporting to be entrusted, with the same or any part thereof, or with the application of the same or any part thereof, shall apply the same to any purpose other than that provided for in the mortgage, every such person—

(a) unless he proves that he acted in good faith and without knowledge that he was not entitled so to apply the same, shall be guilty of an offence and shall be liable, in addition to any civil liability, to a fine not exceeding the amount so misapplied;

(b) if he shall have acted wilfully and knowingly, shall be guilty of the offence of criminal breach of trust, and shall be liable to the punishment prescribed therefor.

**24.** Where any immovable property mortgaged as security for a loan granted under this Ordinance is sold for the purpose of the enforcement of the security, the commissioners may buy any such property at the sale, and may manage the same in accordance with regulations made under this Ordinance, and may sell or otherwise dispose of the same in such manner as they may think fit.

Enforcement of  
securities.

**25.** (1) The commissioners may examine any persons willing to be examined on any matters connected with the execution of this Ordinance, and may for that purpose or otherwise for the purpose of the execution of this Ordinance administer an oath or affirmation and take any affidavit or declaration.

Power to  
administer  
oaths.

(2) Any person who, when examined by the commissioners in pursuance of this Ordinance or any regulation made under this Ordinance, wilfully gives false evidence, or who, for the purpose of obtaining a loan under this Ordinance, wilfully gives information to the commissioners which is false in any material particular, shall be guilty of an offence, and may be tried and punished in the same manner as if he had given false evidence in a judicial proceeding.

**26.** The commissioners may postpone for any time not exceeding five years the payment of any sum in respect of principal and interest, or either, due or to become due, in respect of a loan under this Ordinance for the purpose of any work or enterprise, upon such terms and conditions, for the completion and carrying out of such work or enterprise, and the ultimate payment of such principal and interest as they may authorize.

Suspension of  
payment of  
principal and  
interest.

**27.** The commissioners may, subject to the prescribed regulations, if under the circumstances they think fit, accept any security in lieu of any security previously given to them or any part of such security, subject to such terms and conditions as they

Change of  
security.

direct, so however that the substituted security shall be of the character which the commissioners might take if the loan were originally granted at the time of such substitution.

Power to extend time, compound, or release.

28. The commissioners, subject to the approval of the Minister, may from time to time extend the period for the repayment of any loan, or compound, or release any loan or any part thereof, subject to such terms and conditions as they may think fit.

Payment of loan before the same is due.

29. The commissioners may, if they think fit, at any time accept payment of the whole or any part of the principal and interest of any loan or other money secured by any mortgage under this Ordinance before the time when the same is due, and may release or convey the mortgaged property to the person paying the same, or as he may direct, upon such terms and conditions and in such manner and form as the commissioners may deem expedient.

Conversion of existing loans. [§ 10. Law 9 of 1974.]

30. (1) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, direct that any loan advanced to any local authority before the commencement of this Ordinance, which is repayable by means of a sinking fund, shall be converted into a loan repayable by instalments of principal and interest, and such loan shall be converted accordingly, and thereupon the security given for the purpose of the repayment of the loan and the interest due in respect thereof before such conversion shall be deemed to have reference to such loan as converted, and shall be enforceable accordingly.

(2) Subject to any special agreement between the Government and the local authority, the terms of such conversion shall be as follows :—

- (a) all investments made for the purpose of the sinking fund shall be transferred to the Government in reduction of the amount due under the loan at the market value of the respective securities at the date of the transfer;
- (b) the annual amount payable in respect of principal and interest under the conversion shall not exceed the annual amount payable in respect of the sinking fund and interest under the original loan.

31. (1) Notices, directions, orders, and documents required by this Ordinance, or by any regulation made under this Ordinance, to be served or sent may, unless otherwise expressly provided, be served and sent by post, and until the contrary is proved shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that the letter containing the notice, direction, order or document was prepaid and properly addressed and put into the post.

Service of notices.

(2) Notices and documents required by this Ordinance, or by any regulation made under this Ordinance, to be served on the commissioners, may be so served by serving the same on their secretary, or by sending the same addressed to or delivering the same at the office of the commissioners.

32. All references to a mortgagor shall, if need be, be deemed to include a reference to the successors, heirs, executors, administrators, and assigns of, or other persons claiming through or under such mortgagor.

Meaning of mortgagor.

33. In this Ordinance, unless the context otherwise requires —

Interpretation, [§ 11, Law 9 of 1974.]

" commercial bank " has the same meaning as in the Monetary Law Act;

" Government-sponsored lending institution " means any Government-sponsored lending institution which is approved by the Minister, with the concurrence of the Minister in charge of the subject of Finance, for the purposes of section 6;

" local authority " includes any Municipal Council, Urban Council, Town Council or Village Council;

" Minister " means the Minister in charge of the subject of Local Government, and " Ministry " shall be construed accordingly;

" Secretary to the Ministry " shall include an Additional Secretary to the Ministry.