

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

*House of Representatives, 10 September 1971.*

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

*Hon. Mr Muldoon*

## LOCAL AUTHORITIES LOANS AMENDMENT

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### ANALYSIS

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### A BILL INTITULED

#### An Act to amend the Local Authorities Loans Act 1956

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

5 as follows:

**1. Short Title**—This Act may be cited as the Local Authorities Loans Amendment Act 1971, and shall be read together with and deemed part of the Local Authorities Loans Act 1956\* (hereinafter referred to as the principal Act).

\*1957, Reprint, Vol. 8, p. 443

Amendments: 1959, No. 17; 1961, No. 71; 1963, No. 97; 1967, No. 20; 1968, No. 90

No. 44—2

*Price 10c*

**2. Meaning of "special order"**—Section 2 of the principal Act is hereby amended by repealing paragraph (b) of the definition of the expression "special order" and the proviso to that definition, and substituting the following paragraphs:

- "(b) Where there is no such provision and the local authority has power to make and levy a rate as security for the loan, such an order made in accordance with the provisions of section 77 of the Municipal Corporations Act 1954 as if the references in that section to the Council and to Councillors were references to the local authority and to members of the local authority, respectively: 5
- "(c) Where there is no such provision and the local authority has no power to make and levy a rate as security for the loan, a resolution passed by the local authority at a special meeting convened for the purpose:" 10 15

**3. Limitation of power of local authority to borrow for revenue purposes**—Section 20 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection: 20

- "(3) For the purposes of this section,—
- "(a) Money borrowed otherwise than by way of bank overdraft shall be deemed to be money owing upon the bank account into which it was paid: 25
- "(b) The amount of any cheque drawn on a bank account but not presented at the end of a year shall be deemed to be money owing upon that account at the end of that year:
- "(c) Money in a bank account at the end of a year which is properly payable into another bank account shall be deemed to be money owing at the end of that year upon the bank account in which it is held." 30

**4. Raising of special loans by local authorities**—Section 24 of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph: 35

- "(d) The reimbursement of any expenditure incurred for any purpose for which a special loan may lawfully be raised, where the Local Authorities Loans Board is satisfied that it was not practicable for the local authority to obtain consent to raise a special loan pursuant to Part I of this Act before incurring the expenditure." 40

**5. Loan for benefit of part of district**—Section 27 of the principal Act is hereby amended by adding to subsection (1), the words “contained within continuous boundaries”.

**6. Loans for emergency purposes**—The principal Act is hereby further amended by repealing section 28, and substituting the following section:

“28. Instead of raising by way of bank overdraft the money required to provide for any emergency referred to in section 21 of this Act or to reimburse the local fund account for any expenditure incurred in providing for any such emergency, the local authority may borrow the money by way of special loan under this Part of this Act.”

**7. Repealing provisions as to application of loan money for work in district of another local authority**—(1) Section 29 of the principal Act is hereby repealed.

*New*

(2) Section 31 of the principal Act is hereby consequentially amended by omitting from subsection (3) the words “section twenty-nine”.

*Struck Out*

**8. Loan may be raised pursuant to special order, but poll may be required in certain circumstances**—(1) Section 34 of the principal Act is hereby amended by omitting from the proviso to subsection (1) the words “where the local authority has power to make and levy a rate as security for the loan, the prior consent of the ratepayers of the district”, and substituting the words “where the local authority will, upon being authorised to raise the loan, have power to appropriate and pledge a special rate in respect of the loan, the prior consent of the ratepayers concerned”.

(2) Section 34 of the principal Act is hereby further amended by omitting from paragraph (b) of the proviso to subsection (1) and also from subsection (2) the words “the day before”, and substituting in each case the words “9 a.m. on”.

(3) Section 34 of the principal Act is hereby further amended by inserting in subsection (3), after the words “the local authority shall”, the words “, unless it resolves not to proceed with the raising of the loan,”.

(4) Section 34 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection:

*Struck Out*

“(4) Notwithstanding anything in any other Act, the provisions of this section shall apply with respect to all loans to which this Part of this Act applies.”

*New*

**8. Loan may be raised pursuant to special order, but poll may be required in certain cases—**(1) The principal Act is hereby further amended by repealing section 34, and substituting the following section:

“34. (1) Subject to the provisions of this section, a special loan may be raised pursuant to a special order made by the local authority. 10

“(2) In any case where the local authority will, upon being authorised to raise the loan, have power to appropriate and pledge a special rate in respect of the loan, the prior consent of the ratepayers concerned shall also be obtained to the raising of the loan where— 15

“(a) The Local Authorities Loans Board requires that consent to be obtained; or

“(b) Not less than 5 percent of the ratepayers whose names are inscribed on the ratepayers roll of the district or defined part thereof, as the case may be, by writing under their hands, delivered or sent by post to the local authority and received at the principal office of the local authority not later than 9 a.m. on the date fixed for the confirmation of the resolution to raise the special loan, demand that a poll be taken on the proposal; 25  
or

“(c) The local authority so resolves; or 30

“(d) The consent of the ratepayers is required to be obtained by any other enactment:

“Provided that where the prior consent of the ratepayers is to be obtained pursuant to paragraph (a) or paragraph (c) or paragraph (d) of this subsection, the loan may be raised pursuant to an ordinary resolution of the local authority. 35

“(3) Every public notice required by any enactment to be given of a resolution to make a special order pursuant to subsection (1) of this section shall, in addition to any other particulars required to be given therein, contain a statement to the effect that a poll of the ratepayers of the 40

*New*

district or defined part thereof, as the case may be, is required to be taken if not less than 5 percent of those ratepayers so demand, by writing under their hands, delivered  
 5 or sent by post to the local authority and received at the principal office of the local authority not later than 9 a.m. on the date fixed for the confirmation of the resolution to raise the special loan.

“(4) In any case where the prior consent of the ratepayers is to be obtained pursuant to paragraph (a) or paragraph (c) or paragraph (d) of subsection (2) of this section, the local  
 10 authority shall, unless it resolves not to raise the loan, take the steps prescribed by sections 35 to 38 of this Act.

“(5) In any case where a sufficient number of demands for a poll, which purport to be made pursuant to paragraph (b) of subsection (2) of this section, is received, the local  
 15 authority shall, unless it resolves not to raise the loan, confirm the resolution to raise the loan and proceed to take the steps prescribed by sections 35 to 38 of this Act:

20 “Provided that it shall not be necessary to take those steps if it is established, whether before or after the confirmation of the resolution, that a poll has not been demanded in accordance with the said paragraph (b).

“(6) Notwithstanding anything in any other Act, the provisions of this section shall apply with respect to all loans to which this Part of this Act applies.”

(2) Section 5 of the Local Authorities Loans Amendment Act 1959 is hereby consequentially repealed.

**9. Special order and poll not necessary in certain cases—**

30 The principal Act is hereby further amended by repealing section 42, and substituting the following section:

“42. Notwithstanding anything in section 34 of this Act, a local authority may raise a special loan pursuant to a resolution of the local authority and without the prior consent  
 35 of the ratepayers where the loan falls within any of the following categories:

“(a) Any loan raised to repay or renew on maturity the whole or any part of any special loan previously raised:

40 “(b) Any loan raised to convert, under Part V of this Act, the whole or any part of any special loan previously raised, but so that the annual charges in respect of that loan are not thereby increased; or

- “(c) Any loan raised under section 28 of this Act:
- “(d) Any loan raised under section 44 of this Act:
- “(e) Any loan raised under section 31 of the Finance Act (No. 3) 1944:
- “(f) Any loan which by any Act passed before the 31st day of December 1951 a local authority is authorised to raise by special order without taking the steps prescribed by sections 9 to 13 of the Local Bodies’ Loans Act 1926 or the corresponding provisions of any former Act, 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 resulting from obligations imposed on it by or pursuant to any Act: 5 10 15
- “(g) Any loan which a local authority is authorised to raise by special order without taking the steps prescribed by sections 9 to 13 of the Local Bodies’ Loans Act 1926 or the corresponding provisions of any former Act, where the authority to raise the loan is contained in an enactment passed before the 31st day of December 1951, which specifically authorises the local authority by name to raise the loan.” 20

**10. Power to raise supplementary loan**—Section 44 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection: 25

“(1) If the amount of any special loan which a local authority has been authorised to raise, together with the amount of any additional special loan (if any) which the local authority has been authorised to raise for the same purpose as the original loan, is found insufficient to complete the undertaking in respect of which the original loan was authorised, the local authority may raise a further special loan under section 42 of this Act of an amount being not greater than one-tenth of the total amount previously authorised.” 30 35

**11. Special rate**—(1) The principal Act is hereby further amended by repealing section 47, and substituting the following section:

“47. (1) Subject in the case of a Harbour Board to subsection (2) of this section, where the local authority is empowered by any other enactment to make and levy any rate and has obtained consent to raise a special loan pursuant to 40

Part I of this Act, the local authority shall be deemed to have made, immediately upon obtaining that consent, a special rate of such amount each year upon the rateable value of all rateable property in the district (or, where the loan is being  
5 raised for the benefit of a part of the district, in that part) as is sufficient to provide in that year for the payment of the annual charges in respect of the loan plus 10 percent thereof until the loan is paid off.

“(2) The provisions of subsection (1) of this section shall  
10 not apply to any special loan being raised by a Harbour Board unless—

“(a) The Harbour Board is authorised by a special Act to make a special rate in respect of that loan, in  
15 which case the special rate deemed to have been made under subsection (1) of this section shall not exceed the maximum special rate authorised by the special Act; or

“(b) The loan is required for the repayment or conversion of the whole or part of a previous loan in respect of  
20 which the Harbour Board was authorised by a special Act to make a special rate; or

“(c) The loan is required for the repayment or conversion of the whole or part of any loan referred to in  
25 paragraph (b) of this subsection or of any subsequent repayment or conversion loan.

“(3) Any provisions of the special Act authorising a Harbour Board to make or levy a special rate on a differential basis or to meet a deficiency in the estimated revenue of the Board shall apply, with all necessary modifications, to a special rate  
30 deemed to have been made by the Board pursuant to subsection (2) of this section in respect of a repayment loan or conversion loan.

“(4) Subject to the provisions of this Act and any other Act, where a Harbour Board is deemed to have made a special  
35 rate pursuant to subsection (2) of this section in respect of a repayment loan or a conversion loan, the amount of all special rates that may be levied under the special Act (including for the purposes of this subsection rates levied in respect of loans raised for the repayment or conversion of any previous loan)  
40 shall not exceed the amount of the special rate authorised to be made and levied by the special Act.

“(5) Every special rate deemed to have been made under this section may be levied each year without further proceeding by the local authority until the loan in respect of which the special rate was deemed to have been made has been paid off. 5

“(6) Where, after the special rate is deemed to have been made, any property within the area affected thereby becomes rateable property, that property shall become liable to the special rate and shall be rated accordingly.

“(7) A special rate to provide for the payment of the annual charges in respect of a loan raised for the benefit of any defined part of a district pursuant to section 27 of this Act shall be deemed to be made and may be levied within that part only. 10

“(8) All special rates levied and collected shall be applied in meeting the annual charges in respect of the loan as security for which they were deemed to have been made and to no other purpose. 15

“(9) The provisions of this section shall apply to all special rates made before the commencement of this section and subsisting at the commencement of this section as if they had been deemed to have been made under this section. 20

“(10) The provisions of this section shall apply to all special loans **(sanctioned by the Local Authorities Loans Board)** consented to under Part I of this Act before the commencement of this section in respect of which a special rate has not been made before the commencement of this section as if that **(sanction)** consent had been given on the date of the commencement of this section.” 25

(2) The principal Act is hereby consequentially amended in the manner indicated in the First Schedule to this Act. 30

**12. Issue of debentures**—Section 57 of the principal Act is hereby amended by omitting from subsection (4) the words “the public work or undertaking, special rate, or other property or funds”, and substituting the words “the nature of the security (if any)”. 35

**13. Principal local authority to raise and receive joint special loan**—Section 108 of the principal Act is hereby amended by adding to paragraph (g) the following proviso: 40  
 “Provided that where the joint special loan has been raised for the purposes of a joint work or undertaking of all the uniting local authorities, those local authorities may agree that all or



part of the net principal money resulting from the raising of the loan shall be retained by the principal local authority for expenditure on the joint work or undertaking.”.

*Struck Out*

- 5 **14. Application of Part III to joint special loans**—Section 109 of the principal Act is hereby amended—
  - (a) By omitting from paragraph (a) of subsection (2) the words “sections twenty-four to thirty”, and substituting the words “sections 24 to 26, 28, 30”:
  - 10 (b) By omitting from the same paragraph the words “forty-four to fifty-one”, and substituting the words “44 to 49”.

*New*

- 15 **14. Application of Part III to joint special loans**—Section 109 of the principal Act is hereby amended—
  - (a) By omitting from paragraph (a) of subsection (2) all words after the words “that is to say”, and substituting the words “sections 24 to 26, 28, 30, 32, 35 to 37, 42, 44 to 49, 56, and 85, subsection (2) of section 86, and sections 90, 94 to 96, 101, and 105”:
  - 20 (b) By omitting from subsection (3) the words “sections ninety-two to one hundred and two”, and substituting the words “sections 92 to 96 and 98 to 102”.

25 **15. Validation of irregularities**—Section 130 of the principal Act is hereby amended by omitting the words “the Governor-General, if satisfied that the ratepayers have not been misled, may, by Order in Council gazetted”, and substituting the words “the Minister, if satisfied that the ratepayers have not been misled, may, by notice in the *Gazette*,”.

30 **16. Retrospective consents**—The principal Act is hereby further amended by inserting, after section 130, the following section:

35 “130A. Where pursuant to this Act the prior consent, sanction, or approval of the Minister or the Local Authorities Loans Board is required to any matter or thing, and any such matter or thing is done without that consent, sanction, or approval having been obtained, the Minister or the Board, as the case may be, may at any time thereafter, if satisfied that

consent, sanction, or approval would have been given if application therefor had been made at the proper time, in his or its discretion give that consent, sanction, or approval; and thereupon, subject to the terms of the consent, sanction, or approval, the matter or thing so done shall be as valid and effectual as if it had been done with the prior consent, sanction, or approval of the Minister or the Board, as the case may be.” 5

**17. Forms**—The First Schedule to the principal Act is hereby amended—

- (a) By repealing form 1: 10
- (b) By repealing forms 2, 3, and 4, and substituting the forms 2, 3, and 4 set out in the Second Schedule to this Act:
- (c) By omitting from form 7 and also from form 8 the words “*public office*”, and substituting in each case the words “*principal office*”: 15
- (d) By omitting from form 7 and also from form 8 the words “[*This should be omitted where the debenture is guaranteed by the Crown*]”, and substituting in each case the words “[*This should be omitted where the debenture is guaranteed by the Crown and be replaced by an appropriate reference to the guarantee*]”: 20
- (e) By omitting from form 7 and also from form 8 the words “[*If desired, provision may be made for payment of principal and interest free of exchange.*]”: 25
- (f) By inserting in form 8, after the words “transferable except to”, the words “the Crown or to”.

**18. Repealing provisions as to subsidy on general rates**—The following enactments are hereby repealed: 30

- (a) Subsections (2) and (3) of section 36 of the Finance Act (No. 2) 1939:
- (b) So much of the Second Schedule to the National Roads Act 1953 as relates to section 36 of the Finance Act (No. 2) 1939: 35
- (c) Section 6 of the Finance Act (No. 2) 1955.

**19. Consequential repeals**—The following enactments are hereby consequentially repealed:

- (a) Section 7 of the Local Authorities Loans Amendment Act 1959: 40
- (b) Section 6 of the Local Authorities Loans Amendment Act 1961:

- (c) Paragraph (e) of subsection (3) of section 3 and section 5 of the Local Authorities Loans Amendment Act 1967:
- 5 (d) Paragraphs (c) to (g) of subsection (2) of section 22 of the New Zealand Ports Authority Act 1968.

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## SCHEDULES

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### FIRST SCHEDULE

Section 11 (2)

#### CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT

Section of Principal Act	Amendment
Section 2	By inserting in the definition of the expression "special rate", after the words "a rate", the words "deemed to have been".
Section 45	By repealing paragraph (b) of subsection (1), and substituting the following paragraph: "(b) Subject to section 47 of this Act, a special rate deemed to have been made pursuant to that section as security for the repayment of that special loan:"
Section 48	By repealing subsections (1) and (2), and substituting the following subsections: "(1) Where a special loan is secured by a special rate deemed to have been made over the whole of the district, the local authority may, by resolution, decide to meet the annual charges in respect of the loan out of its general account; and where a special loan is secured by a special rate deemed to have been made over any legal subdivision or other defined part of the district, the annual charges in respect of the loan may be paid out of any general or separate rate made over the same subdivision or part.

FIRST SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT—*continued*

Section of Principal Act	Amendment
Section 48— <i>continued</i>	“(2) Where a special loan is secured by a special rate deemed to have been made over any legal subdivision or other defined part of the district, the local authority may, by special order, decide to meet out of the general account or in the case of a county, out of the general account or the appropriate riding account or riding accounts or the appropriate county town account, the annual charges in respect of the loan. Where, in the case of a county in which the general rate is made and levied separately in each riding, the legal subdivision or other defined part of the district comprises 2 or more ridings or parts thereof, the special order shall fix the proportionate part of each such payment to be made out of each riding account affected and out of the county town account of any county town situated within any such riding.”
Section 50 .....	By repealing this section.
Section 97 .....	By repealing this section.
Section 116 .....	By omitting from paragraph (a) of subsection (1) the words “special rate made”, and substituting the words “special rate deemed to have been made”.
Section 117 .....	By omitting the words “special rate made”, and substituting the words “special rate deemed to have been made”.
Section 131 .....	By omitting from subsection (2) the words “local authority has”, and substituting the words “local authority”.
	By omitting from paragraph (a) of subsection (2) the word “Made”, and substituting the words “Is deemed to have made”.
	By omitting from paragraph (b) of subsection (2) the word “Made”, and substituting the words “Is deemed to have made”.
	By omitting from subsection (2) the words “special rate made”, and substituting the words “special rate deemed to have been made”.

SECOND SCHEDULE

Section 17 (b)

New Forms 2, 3, and 4

Section 57 (1)

“Form 2

FORM OF DEBENTURE WHERE SUM SECURED IS PAYABLE ON PRESENTATION OF DEBENTURE

DEBENTURE FOR \$

No.

[Name of local authority], of [Name of town where principal office situated], New Zealand.

[State name or description of loan as commonly known] of \$ .

Secured on a special rate deemed to have been made pursuant to section 47 of the Local Authorities Loans Act 1956 which said special rate has been permanently appropriated and pledged as security for the repayment of the said loan of \$ and interest thereon at the rate of percent per annum.

[Or where a special rate is not deemed to have been made.]

Secured on the revenues [or other security] of the [Name of local authority] which said [Revenues or other security] have been permanently pledged as security for the repayment of the said loan of \$ and interest thereon at the rate of percent per annum.

[Or where the loan is guaranteed by the Crown.]

The repayment of the said loan of \$ and payment of interest thereon at the rate of percent per annum are guaranteed by the Crown pursuant to [State reference to appropriate Act].

PAYABLE at [State place of payment] on the day of 19 .

Issued by the [Name of local authority] under the Local Authorities Loans Act 1956.

N.B.—The holder of this debenture has no claim in respect thereof upon the Government or public revenues of New Zealand.

[This should be omitted where the debenture is guaranteed by the Crown.]

On presentation of this debenture at [State place of payment] on or after the day of 19 , the holder thereof will be entitled to receive \$ . On receipt of this sum the holder must surrender this debenture.

[If interest is to be paid by way of attached coupons, add]. This debenture bears interest at the rate of percent per annum, payable on and in each year on presentation of the attached coupons.

[If desired, the number of debentures issued and the amounts and dates of payment of the several debentures may be inserted.]

Issued under the common seal of the Corporation of [Name of district of local authority—e.g., the City of Wellington], the day of , 19 .

[L.S.]

A. B., Mayor [or Chairman].
[Or E. F. } Agents.]
G. H. }

C. D., Treasurer [or other officer appointed for that purpose].

SECOND SCHEDULE—*continued*

Section 57 (1)

"Form 3

FORM OF DEBENTURE WHERE SUM SECURED IS PAYABLE BY INSTALMENTS

DEBENTURE FOR \$

No.

[*Name of local authority*], of [*Name of town where principal office situated*], New Zealand.

Lender: [*State name and address of lender.*]

[*State name or description of loan as commonly known*] of \$ .

Secured on a special rate deemed to have been made pursuant to section 47 of the Local Authorities Loans Act 1956 which said special rate has been permanently appropriated and pledged as security for the repayment of the said loan of \$ and interest thereon at the rate of percent per annum.

[*Or where a special rate is not deemed to have been made.*]

Secured on the revenues [*or other security*] of the [*Name of local authority*] which said [*Revenues or other security*] have been permanently pledged as security for the repayment of the said loan of \$ and interest thereon at the rate of percent per annum.

[*Or where the loan is guaranteed by the Crown.*]

The repayment of the said loan of \$ and payment of interest thereon at the rate of percent per annum are guaranteed by the Crown pursuant to [*State reference to appropriate Act*].

Issued by the [*Name of local authority*] under the Local Authorities Loans Act 1956.

N.B.—The holder of this debenture has no claim in respect thereof upon the Government or public revenues of New Zealand.

[*This should be omitted where the debenture is guaranteed by the Crown.*]

This debenture secures the sum of \$ and interest thereon at the rate of percent per annum, payable [*State particulars of the method of payment*].

[*A table of payments should be set out or should be endorsed on the back of the debenture.*]

All payments under this debenture shall be made at [*State place of payment of principal and interest*].

On payment of all money secured by this debenture the holder must surrender this debenture.

This debenture is not transferable except to the Crown or to an approved corporation within the meaning of section 57 of the said Act.

Issued under the common seal of the Corporation of [*Name of district of local authority—e.g., the City of Wellington*], the day of 19 .

[L.S.]

A. B., Mayor [*or Chairman.*]

[*Or* E. F. }  
G. H. } Agents.]

C. D., Treasurer [*or other officer appointed for that purpose*].

SECOND SCHEDULE—*continued*

“Form 4

Section 59 (1)

INTEREST COUPON

Debenture No.                      of the [*Name and amount of loan*] raised by  
the [*Name of local authority*] of [*Name of town where principal office is  
situated*] under the Local Authorities Loans Act 1956.

On presentation of this coupon at [*State place of payment*] on or  
after the                      day of                      19                      , the bearer hereof will be entitled  
under the said debenture to receive interest amounting to \$                      .

A. B., Mayor [*or Chairman*].

[*Or* E. F. }  
G. H. } Agents.]

C. D., Treasurer [*or other officer authorised to sign debentures*].”