

LOCAL AUTHORITIES LOANS AMENDMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title and commencement. The commencement date is 1 November 1982.

Clause 2 substitutes in section 2 of the principal Act a new definition of the term "ratepayer". At present, the term means all ratepayers in the district or part of the district of a local authority, and includes all persons entitled to vote on any proposal to raise a loan.

The effect of the change is that the term "ratepayer" will be restricted for all purposes of the principal Act to those persons who would be entitled to vote on a poll relating to a loan raised under the Act.

Clause 3 inserts a new section 3A in the principal Act.

Subsection (1) empowers the Governor-General, by Order in Council, to exempt any local authority or class of local authorities from the requirements to obtain the sanction of the Local Authorities Loans Board and the consent of the Minister to the raising of loans.

Such an Order in Council may be made only on the recommendation of the Minister of Finance, who must consult the Board before making his recommendation.

Subsection (2) provides that any local authority that is exempted from the requirement to obtain the sanction of the Board to the raising of any loan may not raise the loan in contravention of any determinations of the Board imposing conditions relating to the loan.

Subsection (3) empowers the Board to make such determinations.

Subsection (4) provides for the variation of any such determination in respect of any particular loan raised by a local authority. The variation may be made only on the application of the local authority.

Subsection (5) provides for the amendment or revocation of any exemption or determination under the section.

Subsection (6) provides that no variation, amendment, or revocation may apply to any money already borrowed, or affect the security of any lender of money already borrowed.

Subsection (7) provides that the Board may not determine a rate of interest or discount in excess of the rate determined by the Minister for loans that require the sanction of the Board and his approval.

Clause 4: The effect of this amendment is that the category of ratepayers who may demand a poll is the same as those who may vote on the poll if the demand is successful. At present, a poll may be demanded by not less than 15 percent of the ratepayers who are on the roll, whether or not they would be entitled to vote on the poll.

Clause 5, which is consequential upon *clause 3,* provides for the lapse of authority to raise a loan where the sanction of the Board is not required by virtue of an Order in Council made under the proposed *section 3A.* It applies section 40 of the principal Act to those cases, except that the determination of the date on which the authority to raise the loan lapses varies in accordance with the manner in which the raising of the loan is approved by the local authority or its ratepayers.

Clause 6 makes consequential amendments.

Clause 7 is a transitional provision. Its effect is that the change to the definition of the term "ratepayer" will not apply to the raising of any special loan where the date for the confirmation of the resolution to raise that loan was fixed before the coming into force of the Bill.

Right Hon. Mr Muldoon

LOCAL AUTHORITIES LOANS AMENDMENT

ANALYSIS

Title	4. Ratepayers may demand poll
1. Short Title and commencement	5. Lapse of authority to raise exempted loan
2. Interpretation	6. Consequential amendments
3. Exemptions	7. Transitional provision

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, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Local Authorities Loans Amendment Act 1982, and shall be read together with and deemed part of the Local Authorities Loans Act 1956* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of November 1982.

2. Interpretation—Section 2 of the principal Act is hereby amended by omitting the definition of the term “ratepayers”, and substituting the following definition:

“ ‘Ratepayer’ means any person who, at any material time, would be entitled to vote on a poll of ratepayers conducted under the Local Elections and Polls Act 1976 if such a poll were held at that time:”.

*Reprinted 1974, Vol. 3, p. 2301
Amendment: 1976, No. 29

3. Exemptions—The principal Act is hereby amended by inserting, after section 3, the following section:

“3A. (1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister after consultation with the Board, exempt any local authority or class of local authority, in respect of any loan or class of loan or generally in respect of all loans, from— 5

“(a) The requirement of this Part of this Act to obtain—

“(i) The sanction of the Board to the raising of the loan or the class of loans or all loans; or 10

“(ii) The consent of the Minister to the raising of the loan or the class of loan or all loans; or

“(b) Both of the requirements specified in paragraph (a) of this subsection.

“(2) Except as provided in subsection (4) of this section, no local authority that is exempted under an Order in Council made under subsection (1) of this section from any requirement to obtain the sanction of the Board to the raising of any loan shall raise that loan in contravention of any determination of the Board under subsection (3) or subsection (5) of this section that applies to that loan. 20

“(3) The Board may, from time to time by notice in the *Gazette*, in respect of any loan or class of loans that may be raised by a local authority without the sanction of the Board, make determinations specifying conditions relating to— 25

“(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 of the loan:

“(d) The rate of discount that may be allowed in respect of the loan: 30

“(e) Repayment of the loan:

“(f) Any other matters in connection with the borrowing or repaying of the loan.

“(4) The Board may, on application made to it by the local authority concerned, by written notice to that local authority, vary the application of any determination made under subsection (3) of this section to the raising of any particular loan by that local authority. 35

“(5) Subject to subsection (6) of this section, any exemption granted under subsection (1) of this section, and any determination made under subsection (3) of this section, may be amended or revoked in the same manner, and, in the case of determinations, the Board may make a general 40

determination amending or revoking all previous determinations under subsection (3) of this section, or any specified class of such determinations.

5 “(6) Nothing in any variation, amendment, or revocation under subsection (4) or subsection (5) of this section shall—

“(a) Apply to any money already borrowed in accordance with any exemption or determination in force at the time it was borrowed; or

10 “(b) Affect the security of the lenders of any money already borrowed in accordance with any exemption or determination in force at the time it was borrowed.

“(7) The Board shall not in any case determine a rate of interest or discount under any of subsections (3) to (5) of this section that is in excess of the maximum rate determined for 15 the time being by the Minister for the purposes of section 9 of this Act.”

4. Ratepayers may demand poll—Section 34 (2) (b) of the principal Act (as substituted by section 8 (1) of the Local Authorities Loans Amendment Act 1971 and amended by 20 section 4 (1) of the Local Authorities Loans Amendment Act 1976) is hereby amended by omitting the words “whose names are inscribed on the ratepayers roll”.

5. Lapse of authority to raise exempted loan—The principal Act is hereby amended by inserting, after section 40, 25 the following section:

“40A. Where, by virtue of an Order in Council made under section 3A of this Act, a local authority is not required to obtain the sanction of the Board to raise a special loan, section 40 of this Act shall apply to the raising of that loan as 30 if the references in that section to the sanction of the Board were references to—

“(a) The date of any special order made under section 34 of this Act; or

35 “(b) The date of publication in the *Gazette* in accordance with section 38 of this Act of the result of any poll relating to the loan; or

“(c) The date of any resolution of the local authority made for the purposes of section 42 of this Act; or

40 “(d) The date when the consent of a majority of ratepayers is received under section 43 of this Act,—
as the case may require.”

6. Consequential amendments—(1) Section 3 (1) of the principal Act is hereby consequentially amended by inserting, after the words “in any Act,”, the words “and except as provided in section 3A of this Act,”.

(2) Section 27 (2) of the principal Act is hereby 5
consequentially amended by omitting the words “comprising the names of all persons in that part entitled to vote on a roll of ratepayers”, and substituting the words “of ratepayers in that part of the district”.

(3) Section 30 (1) of the principal Act is hereby 10
consequentially amended by inserting, after the words “local authority”, the words “is entitled to raise a loan under this Act without the authorisation of the Minister or”.

7. Transitional provision—Nothing in section 2, section 4, or section 6 (2) of this Act shall apply to the raising of a 15
special loan where the date for the confirmation of the resolution to raise the special loan was fixed before the 1st day of November 1982; and, in relation to the raising of any such loan, the principal Act shall be read as if those provisions 20
were not in force.