

1957/28

THE LOCAL AUTHORITIES LOANS REGULATIONS 1957

C. W. M. NORRIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 27th day of February 1957

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Local Authorities Loans Act 1956, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Local Authorities Loans Regulations 1957.

(2) These regulations shall come into force on the 1st day of April 1957.

2. In these regulations, unless the context otherwise requires,—
 “The Act” means the Local Authorities Loans Act 1956;
 Expressions defined in the Act have the meanings so defined.

PART I—APPLICATIONS FOR SANCTION OF LOCAL AUTHORITIES LOANS BOARD

3. (1) Unless the Board, for any reason which it considers sufficient, otherwise resolves every local authority shall, before making application to the Board under the Act, give public notice of its intention to consider a motion to make the application, and shall state the date of the meeting at which the motion is to be considered (being not less than fourteen days after the date of that public notice) and shall call for any objections thereto to be submitted in writing to the local authority not later than the day preceding the meeting.

(2) Every such public notice shall be given by advertisement which, in the case of a local authority exercising jurisdiction in a defined district, shall be inserted in some newspaper circulating in the district, and in any other case shall be reasonably sufficient in the opinion of the Board to inform all persons concerned of the proposed application.

(3) Every such public notice shall be in form 1 in the First Schedule hereto or to the like effect.

(4) This regulation shall not apply to loans of either of the following classes:

- (a) Loans for the repayment or renewal of any loan;
- (b) Loans proposed to be raised under the powers conferred by section 44 of the Act.

4. In approving the provisions for repayment of a loan pursuant to section 9 (6) of the Act, the Board may, in addition to having regard as therein provided to the probable duration and continuing utility of the works for the purposes of which the loan money is proposed to be expended, have regard to the following additional considerations, so far as the same may in any case be deemed by the Board to be applicable:

- (a) The probable obsolescence of the works;
- (b) The probable continuance or cessation of the conditions justifying the loan;
- (c) The probable increase or decrease of population in a district;
- (d) The change of outlook or advance in public opinion;
- (e) The general financial position of the local authority; and
- (f) The expediency of charging the cost of the works upon the generation of persons who will immediately benefit by the works.

5. The notice of the result of a poll of ratepayers on a proposal to raise a special loan, which under section 13 of the Act is to be given to the Local Authorities Loans Board and under section 38 of the Act is to be published in the *Gazette* and in some newspaper circulating in the district, shall be in form 2 in the First Schedule hereto or to the like effect.

PART II—SPECIAL ROLL

6. (1) The special roll for the part of a district for which a special loan is to be raised, and which is not a legal subdivision, shall be prepared from the existing valuation roll, or, where a borough or town district is concerned, from the existing district electors' roll or electors' roll, the additional particulars hereby required being inserted from the existing valuation roll by the local authority proposing to raise the loan.

(2) The special roll shall be in form 3 or form 4 in the First Schedule hereto, as the case may require.

(3) The special roll shall be deposited for public inspection at the office of the local authority for not less than seven days, and notice of that deposit shall be published on the first day of the deposit in some newspaper circulating in the district within which the rating area is situated. The notice shall specify the purpose of the loan which it is proposed shall be secured on the proposed special rating area.

7. No application for sanction shall be made to the Local Authorities Loans Board until the special roll has been authenticated in accordance with this Part of these regulations.

8. (1) Any person whose name appears on the roll may—

- (a) Object to his name being included in the roll on the ground that—
 - (i) His property will not be benefited or will be only partially benefited by the expenditure of the proposed loan; or
 - (ii) The property of any person is wholly or partially omitted from the roll; or
- (b) Object to any matter or thing contained in the roll or to the omission of any matter or thing from the roll.

(2) Notice in writing of the objection shall be forwarded to the local authority within seven days of the last day on which the roll was deposited as aforesaid. The notice shall be in duplicate and shall state fully the grounds of objection and also the full name and address of the objector.

9. (1) The local authority shall cause to be prepared a list of all objections (if any) to the special roll, and that list shall state the name and address of the objector, his number on the special roll, and his reasons for objecting to any matter or thing contained in or omitted from the roll.

(2) A copy of the list shall be forwarded to the Local Authorities Loans Board with the application for sanction to the raising of the loan.

(3) If there are no objections, the Local Authorities Loans Board shall be notified accordingly.

10. (1) The list of objections, together with the special roll, shall be submitted to a Stipendiary Magistrate exercising jurisdiction within the district of the local authority, and the Magistrate shall give at least seven days' notice of the time and place appointed by him to hear the objections.

(2) The Magistrate shall have jurisdiction to hear and finally determine the objections and all matters directly connected therewith and also to make all such alterations in the special roll as he thinks proper, and shall initial all alterations, additions, or erasures so made by him, and shall sign the special roll.

11. The roll when so signed and initialled shall be deemed to be duly authenticated, and shall be the special roll for the portion of the district specified therein, and shall be delivered by the Stipendiary Magistrate to the local authority as the complete special roll for the particular rating district or area to which the roll relates.

12. Where no objections have been made to the special roll, the Chairman of the local authority shall sign the roll and affix the seal of the local authority thereto, and the roll shall thereupon be deemed to be duly authenticated.

13. (1) The Clerk or other principal officer of the local authority may from time to time amend the special roll by omitting the name of any person who has ceased to be a ratepayer in respect of any property on the roll and substituting the name of the person who has become a ratepayer in respect of that property in his place.

(2) The Clerk or other principal officer of the local authority shall initial every such alteration made by him in the special roll.

PART III—RAISING SPECIAL LOAN WITH WRITTEN CONSENT OF RATEPAYERS

14. Every consent of the ratepayers under section 43 of the Act shall be in form 5 in the First Schedule hereto, and the signatures thereto shall be witnessed by some adult person or persons (not being a signatory or signatories to the consent) and verified by statutory declaration in form 6 in that Schedule.

15. No ratepayer shall be capable of withdrawing his signature from any such consent after it has been received by the local authority, and any act purporting to withdraw any such signature shall be null and void.

16. Every such consent shall, when completed, be accompanied by a statutory declaration in form 7 in the First Schedule hereto made by the Chairman of the local authority. That declaration shall be accepted by the Local Authorities Loans Board as sufficient evidence of the required proportion of the number of ratepayers signing the consent.

**PART IV—REPLACEMENT OF LOST OR DESTROYED DEBENTURES
AND COUPONS**

17. In this Part of these regulations, unless the context otherwise requires,—

“Loss” includes destruction, and “lost” has a corresponding meaning:

“Debenture holder” includes every person entitled to the ownership or possession of or any other interest in any debenture; and, where more persons than one are entitled jointly or in common to an interest in any debenture under the same title, means all such persons acting together.

18. This Part of these regulations shall apply whether the loss of a debenture took place before or takes place after the commencement of these regulations.

19. Application for the issue of a new debenture in the place of a lost debenture may be made by any debenture holder.

20. Before making any such application the debenture holder shall give public notice of his intention to make the application, and shall in that notice state the time when and place at which the original debenture was last known to have been in existence, and any circumstances known relating to the loss of the debenture.

21. The public notice shall be given by advertisement in a newspaper circulating in the district of the local authority which issued the debenture, and also in a newspaper circulating in the district in which the debenture is believed to have been lost or was last known to have been in existence.

22. If the local authority considers under the circumstances of the case that insufficient details have been given in the public notice, or that the public notice has been insufficiently advertised, the local authority may decline to issue a new debenture until further public notice has been given to its satisfaction.

23. Every such application shall be made in writing to the local authority which issued the debenture, signed by the debenture holder or his authorised agent, and shall be accompanied by a statutory declaration in form 8 in the First Schedule hereto or to the like effect made by the person last known to have been in possession of the debenture alleged to have been lost, and shall also be accompanied by a copy of every newspaper containing the public notice hereinbefore prescribed.

24. If a declaration by the person last known to have been in possession of the debenture cannot be obtained, the local authority may accept in its stead a statutory declaration to the like effect by some person able of his own knowledge to depose to the facts therein set out, and that declaration shall show why the declaration prescribed by regulation 23 hereof is unobtainable, and shall set out the means of knowledge of the person making the declaration.

25. A bond of indemnity in form 9 in the First Schedule hereto, or to the like effect, shall also be furnished by the applicant and two sureties approved by the local authority, that bond of indemnity being

for an amount equivalent to at least double the face value of the debenture in respect of which the indemnity is given:

Provided that a single surety may be accepted if the surety is an incorporated company or guarantee society approved by the Governor-General in Council for the purposes of section 6 of the Administration Act 1952 or is the State Fire Insurance General Manager.

26. No person shall be approved by a local authority as a surety for the purposes of any bond under this Part of these regulations unless there is delivered to the local authority a report signed by a manager of a bank stating that, in the opinion of the manager, the personal character and financial standing of that person and the probability of the permanent retention of his property in New Zealand are such that he may properly be accepted as a bondsman for the amount of the proposed bond, and unless the report sets out that it is given for the purposes of this Part of these regulations and sets out the amount of the proposed bond:

Provided that no such report shall be required if the surety is an incorporated company or guarantee society approved by the Governor-General as aforesaid or is the State Fire Insurance General Manager.

27. The debenture and interest coupons attached thereto to be issued under the authority of section 64 of the Act shall have the words and figures "Duplicate issued under section 64 of the Local Authorities Loans Act 1956" written thereon, and every such duplicate debenture and interest coupon shall have the same effect to all intents and purposes as the original of which it is a duplicate.

28. The expenditure incurred by the local authority in connection with the issue of the new debenture shall constitute a debt due by the applicant to the local authority, and shall be payable before the issue of the new debenture:

Provided that the local authority shall be entitled to recover under this regulation only such expenditure as has been reasonably incurred in the preparation and issue of the new debenture, and, if any printing charges or other expenditure be incurred jointly in respect of more applications than one, the local authority shall apportion that expenditure amongst the applications in such manner as it deems equitable.

29. Notwithstanding the use in this Part of these regulations of the term "surety," and notwithstanding that as between the applicant and any other person executing a bond that person may be only a surety for the applicant, nevertheless as between all persons executing the bond of the one part and the local authority of the other part each of those persons shall be considered as a principal debtor, and be primarily liable accordingly, jointly and severally, according to the tenor of the bond.

30. If any application under this Part of these regulations is made to take effect on the maturity or payment of a debenture it shall not be necessary before payment thereof actually to prepare or issue a new debenture, but the local authority may without surrender of the lost debenture pay the sum thereby secured to the person entitled thereto on obtaining the evidence of loss hereinbefore provided for, and the good and sufficient indemnity provided for by section 64 of the Act and by this Part of these regulations.

31. Any application under this Part of these regulations may be made in respect only of one or more interest coupons, whether or not the debenture to which the same were attached may also be lost, and on

any such application this Part of these regulations shall apply as if each such interest coupon were itself a debenture, and the necessary modifications may be made in forms 8 and 9 in the First Schedule hereto.

32. In any case where no person in New Zealand is able to make the statutory declaration hereby required to the satisfaction of the local authority, the local authority may accept in its stead a declaration purporting to be made outside New Zealand in accordance with the provisions of an Act of the Parliament of the United Kingdom now known by the short title of the Statutory Declarations Act 1835, or in accordance with the provisions of any law in force in any State of the British Commonwealth or any part or dependency of any such State which has the effect of permitting declarations to be made before specified persons and imposing a penalty for falsity of a declaration so made.

33. Where the value of lost debentures or interest coupons belonging to any one debenture holder does not in any case exceed in the aggregate £20, it shall be lawful for the local authority in its discretion to waive the provisions of regulations 20 to 26, 29, and 32 hereof, and with the approval of the Audit Office in accordance with the provisions of section 64 of the Act, and upon satisfactory evidence being supplied as to the loss of the debentures in respect of which application is made, and a letter of indemnity, in form 10 in the First Schedule hereto or to the like effect, being given by the debenture holder, to issue duplicate debentures or otherwise without the surrender of the original securities to pay the sum thereby secured to the person entitled thereto.

34. In any case where application is made in respect of a debenture or interest coupon declared to have been lost as a result of enemy action during the Second World War, regulations 20, 21, 22, 25, 26, and 29 hereof shall not apply, and the remaining regulations in this Part of these regulations shall be modified accordingly.

PART V—REVOCATIONS

35. The regulations specified in the Second Schedule hereto are hereby revoked.

SCHEDULES

FIRST SCHEDULE

Reg. 3 (3)

Form 1

PUBLIC NOTICE OF PROPOSED APPLICATION FOR SANCTION OF LOAN

NOTICE is hereby given that the [*Name of local authority*] proposes at its meeting to be held on the day of, 19...., to consider a motion to apply to the Local Authorities Loans Board for its sanction to the borrowing of the sum of £....., for the purposes of

Any person having any objection to the proposed application is called upon to submit the same in writing to the [*Name of local authority*] not later than the day preceding the said meeting.

Dated this day of 19....

.....
Mayor, Chairman, or other Presiding Member or Principal
Executive Officer of Local Authority.

FIRST SCHEDULE—continued

Form 2

Reg. 5

NOTICE OF RESULT OF POLL ON LOAN PROPOSAL

PURSUANT to section 13 (or section 38) of the Local Authorities Loans Act 1956, notice is hereby given that a poll of the ratepayers of the [Name of district in full] taken on the [Date] on the proposal of the [Name of local authority] to borrow the sum of £..... for the purpose of [State purpose of loan]:

The number of votes recorded for the proposal was

The number of votes recorded against the proposal was

The number of informal votes was

I therefore declare that the proposal was carried (or rejected).

.....
Mayor (or Chairman).

Form 3

Reg. 6 (2)

FORM OF SPECIAL ROLL TO BE PREPARED WHERE THE PART OF THE DISTRICT, NOT BEING A BOROUGH OR TOWN DISTRICT, IS NOT A LEGAL SUBDIVISION

Number	Name	Legal Description of Property	Area	Rateable Value	Number of Votes Exercisable

NOTE—The column headed “Number of Votes Exercisable” shall not be required in cases where no elector is entitled to exercise more votes than one, or in cases where a loan is to be raised under section 43 of the Act.

Form 4

Reg. 6 (2)

FORM OF SPECIAL ROLL TO BE PREPARED WHERE PART OF A BOROUGH OR TOWN DISTRICT IS NOT A LEGAL SUBDIVISION

Number	Name	Qualification Whether Freehold or Rating	Legal Description of Property	Area	Rateable Value

FIRST SCHEDULE—*continued*

Form 5

Reg. 14

RATEPAYERS' CONSENT UNDER SECTION 43 OF THE LOCAL AUTHORITIES
LOANS ACT 1956

We, the undersigned ratepayers, hereby consent to—

- (a) The raising of a special loan of £..... under the Local Authorities Loans Act 1956 to be known as [*Name of loan*] for the purpose of [*State purpose of loan*]; and
- (b) The levying of a special rate of [*State amount in the pound and the basis of valuation, i.e., capital, unimproved, or annual value*] on the rateable value of all rateable property of the [*State name of district or special rating area*] for the purpose of providing the annual charges on the loan. The special rate shall be an annually recurring rate during the currency of the loan, and be payable on the day of [*State date*] and the day of [*State date*] in each and every year during a period equal to the currency of the loan being a period of [*State number*] years, or until the loan is fully paid off, and be subject in all respects to the provisions of the said Act.

Ratepayer's Name	Ratepayer's Signature	*Signature of Witness

*A consenting ratepayer should not in any case be the witness of the signature of any other consenting ratepayer.

Form 6

Reg. 14

DECLARATION VERIFYING SIGNATURES TO CONSENT

I, A.B., of solemnly and sincerely declare—

1. That the signatures affixed to the above consent initialled by me are the genuine signatures of the persons whose signatures they purport to be.
2. That those persons are ratepayers of the rating area to which the consent relates.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Justices of the Peace Act 1927.

Declared at this day A.B.
of 19...., before me—

C.D.,
Justice of the Peace [*or Solicitor*].

FIRST SCHEDULE—*continued*

Form 7

Reg. 16

DECLARATION OF CHAIRMAN OF LOCAL AUTHORITY

I, A.B., Chairman of the [*Name of local authority and of district in full*] solemnly and sincerely declare—

1. That the ratepayers of the [*Name of district or special rating area*] do not exceed one hundred.
2. That the signatures appended to the consent hereto attached comprise the signatures of a majority of those ratepayers.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the Justices of the Peace Act 1927.

Declared at this day
of 19...., before me—

A.B.,
Chairman.

C.D.,
Justice of the Peace [*or Solicitor*].

Form 8

Reg. 23

DECLARATION AS TO LOSS OR DESTRUCTION OF DEBENTURE

Under Part IV of the Local Authorities Loans Regulations 1957

I, [*Full name*], of [*Address*], [*Description*], solemnly and sincerely declare—

1. That am the owner of [*Name of local authority*] debenture(s) as under:
[*Insert particulars of debenture(s)*]
2. That to the best of my knowledge there were attached to the said debenture(s) interest coupons for interest due respectively on the half-yearly days from to (both dates inclusive).
3. That the said debenture(s) with relative interest coupons was/were kept by me in at, and I believe the said debenture(s) was/were lost or destroyed by
[*Insert details of loss or destruction*]
4. That the said debenture(s) cannot now be located, and that diligent search and full inquiries have been made in all likely places for the said debenture(s), but no trace thereof can be found.
5. That I have not, nor has any other person on my behalf either with my consent expressed or implied or otherwise to my knowledge, assigned, charged, pledged, or otherwise parted with the said debenture(s) (or any of them) whether by way of security or in any manner whatsoever.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Justices of the Peace Act 1927.

Declared at this day of 19.... before me—

.....
A Justice of the Peace, [*or Solicitor*].

FIRST SCHEDULE—*continued*

Reg. 25

Form 9

BOND OF INDEMNITY ON REPLACEMENT OF LOST OR DESTROYED
DEBENTURE*Under Part IV of the Local Authorities Loans Regulations 1957*

KNOW all men by these presents that [*Name of claimant*], of [*Address*], [*Description*], and [*First surety*], of [*Address*], [*Description*], and [*Second surety*], of [*Address*], [*Description*], are jointly and severally held and firmly bound unto [*Corporate name of local authority*] in the sum of [*Double the face value of the debenture(s)*], to be paid to [*Local authority*], for which payment to be well and truly made we hereby bind ourselves jointly and each of us severally and respectively our and each of our executors and administrators firmly by these presents.

Dated this day of, 19.....

Whereas the above bounden [*Debenture holder*], being the lawful owner of [*Local authority*]. [*Debenture(s)*] numbered for [*Amount*], issued under the [*Refer to statutory authority*], which was/were [*Insert particulars of loss or destruction*], has requested the [*Local authority*] to issue a new debenture(s) in place of the debenture(s) so lost or destroyed as aforesaid, which the [*Local authority*] has consented to do on having an indemnity as hereinafter provided:

Now the condition of the above-written bond or obligation is such that if the above bounden and and, their executors and administrators, shall save harmless and keep indemnified the [*Local authority*] from and against all losses, liabilities, costs, charges, damages, and expenses that may be incurred in the event of the said debenture(s) so lost or destroyed as aforesaid or any interest coupon attached thereto being paid (whether under legal liability for payment or otherwise), or being forthcoming at any future time or incurred through the withholding or refusal of payment of any such debenture or interest coupon (whether at the request express or implied of any person liable under these presents or otherwise), or by reason of two securities for the same principal and interest money or any part thereof being in existence at the same time, and generally from and against all actions, suits, proceedings, claims, and demands whatsoever against [*Local authority*] or any of its officers, or otherwise in respect of the debenture(s) so lost or destroyed as aforesaid, and from and against all costs (including costs as between solicitor and client), charges, damages, and expenses which may be incurred by reason of any such action, suit, proceeding, claim, or demand or otherwise arising out of the premises, then and in that case this bond shall be void and of no effect but otherwise the same shall remain in full force and effect.

Signed by the said, in the presence of—

Witness—Name:
Occupation:
Address:

Signed by the said, in the presence of—

Witness—Name:
Occupation:
Address:

Signed by the said, in the presence of—

Witness—Name:
Occupation:
Address:

FIRST SCHEDULE—*continued*

Form 10

Reg. 33

INDEMNITY WHERE LOST OR DESTROYED DEBENTURES OR COUPONS
DO NOT EXCEED £20*Under Part IV of the Local Authorities Loans Regulations 1957*To the [*Corporate name of local authority*].

Debenture No. for £.....

Interest coupon payable for £.....

Forming part of the [*Insert name of loan*].

The above-described debenture (or interest coupon) has been lost (or destroyed) and in consideration of your issuing a duplicate debenture (or paying to me when due the sum of pounds shillings pence (£..... s.d.) without production of the relative debenture or interest coupon), I hereby undertake to indemnify the [*Name of local authority*] against any claim or any payment whatsoever that may be made in respect thereof, whether in error or otherwise, and all costs and expenses incurred in any manner in respect thereof. Any such amounts may be deducted from any sums of money thereafter due by the [*Local authority*] to me or recovered by action.

Signature:.....

Date:.....19.....

Witness*:.....

Occupation:.....

Address:.....

* (N.B.—The witness must be a person of known position, such as a Magistrate, Justice of the Peace, solicitor, minister of religion, or registered medical practitioner, or, failing that, a householder.)

SECOND SCHEDULE

REGULATIONS REVOKED

Reg. 35

Title or Subject Matter	Published in <i>Gazette</i>	
	Year	Page
Regulations under the Local Bodies' Loans Act 1913	1914	1574
The Local Government Loans Board Regulations 1927	1927	1513
Amending regulations under the Local Bodies' Loans Act 1913	1929	1866
The Local Authorities (Replacement of Debentures) Regulations 1931	1931	2319
The Local Authorities (Replacement of Debentures) Amendment Regulations 1934	1934	4339
	Published in Statutory Regulation Series	
	Year	Serial Number
The Local Body Loans Amending Regulations 1936	1936	40
The Local Authorities (Replacement of Debentures) Regulations 1931, Amendment No. 1	1946	82

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations consolidate with some amendments the existing regulations relating to applications by local authorities to the Local Authorities Loans Board for its sanction to special loans, the preparation of the special roll in respect of loans raised over part of a district, loans raised with the consent of ratepayers, and the replacement of lost or destroyed debentures and interest coupons.

Part I re-enacts without substantial amendment the existing provisions relating to applications to the Local Authorities Loans Board.

Part II prescribes the procedure for the preparation of the special roll for the purposes of loans raised over part of the district of a local authority, and makes some changes in the existing provisions, the changes being mainly consequential on the new provisions of the Local Authorities Loans Act 1956.

Regulation 6 contains new provisions as to the deposit of the special roll for public inspection, and requires the notice of deposit to specify the purpose of the intended loan.

Regulation 7 is new, and provides that application to the Local Authorities Loans Board for its sanction is not to be made until the special roll has been authenticated under the regulations.

Regulation 8 re-enacts the existing provisions as to objections, and contains a new provision that objection may be made on the ground that the objector's property will not be benefited or will be only partially benefited by the expenditure of the proposed loan.

Regulation 9 contains a new provision requiring the local authority to forward to the Local Authorities Loans Board with its application for sanction of a loan a copy of the list of objections or, as the case may require, a notice that no objections have been received.

Regulation 13 is new, and provides that the Clerk or other principal officer of the local authority may amend the special roll from time to time by removing the name of a person who has ceased to be a ratepayer and substituting the name of the new ratepayer in his place.

Part III prescribes the procedure for obtaining the written consent of the ratepayers under section 43 of the Act instead of taking a poll. It largely re-enacts the existing provisions, amended consequentially on the new provisions of the Local Authorities Loans Act 1956.

Regulation 15 is new, and provides that a ratepayer cannot withdraw his consent after it has been received by the local authority.

Part IV re-enacts without substantial amendment the existing provisions relating to the replacement of lost or destroyed debentures and interest coupons.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 28 February 1957.

These regulations are administered in the Department of Justice.