



**BILLE CISTE NA nIASACHTAI AITIULA (LEASU), 1940.
LOCAL LOANS FUND (AMENDMENT) BILL, 1940.**

*Mar do tugadh isteach.
As introduced.*

ARRANGEMENT OF SECTIONS.

Section.

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2. Increase of limit on issues from the fund.
3. Deductions in certain cases of moneys due to the fund.
4. Validation of borrowing in certain cases.
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BILLE CISTE NA nIASACHTAI AITIULA (LEASU), 1940.
LOCAL LOANS FUND (AMENDMENT) BILL, 1940.

BILL

entitled

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AN ACT TO AMEND THE LAW RELATING TO LOCAL
LOANS AND FOR THAT PURPOSE TO AMEND AND
EXTEND THE LOCAL LOANS FUND ACTS, 1935 AND
1937.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :— 10

Definitions.

1.—(1) In this Act—

the expression “ the Principal Act ” means the Local Loans Fund
Act, 1935 (No. 16 of 1935);

the expression “ the fund ” means the local loans fund.

(2) Every expression to which a particular meaning is given 15
by section 1 of the Principal Act for the purposes of that Act has
in this Act the meaning so given to it.

**Increase of limit
on issues from
the fund.**

2.—Section 2 of the Local Loans Fund (Amendment) Act, 1937
(No. 17 of 1937), is hereby repealed and in lieu thereof it is hereby
enacted that the aggregate amount of the moneys issued from the 20
fund in respect of local loans during the period mentioned in sub-
section (3) of section 4 of the Principal Act shall not exceed the
sum of seventeen million pounds.

**Deductions in
certain cases of
moneys due to
the fund.**

3.—(1) In this section—

the expression “ penal interest ” has the same meaning as it has in 25
section 15 of the Principal Act,

the word “ sum ” means a sum consisting of any one or more of
the following, that is to say, principal, interest, and penal interest.

(2) Where any sum is due and payable in relation to a local loan
by any person other than a local authority, the amount of such sum 30
may be deducted from any money payable to such person for any
purpose whatsoever by any Minister of State, the Revenue Com-
missioners, the Commissioners of Public Works in Ireland, or the
Irish Land Commission.

(3) Every amount deducted under this section shall, if or so far 35
as it is so deducted in respect of money owing otherwise than for
penal interest, be paid into the fund and credited in the accounts
of the fund as a payment by the person from whose money the said
amount was so deducted, and shall, if or so far as it is so deducted
in respect of money owing for penal interest, be paid into or dis- 40
posed of for the benefit of the Exchequer in such manner as the
Minister shall direct.

**Validation of
borrowing in
certain cases.**

4.—(1) This section does not apply in relation to any local loan
made to a local authority within the meaning of the Local Authori-
ties (Miscellaneous Provisions) Act, 1936 (No. 55 of 1936), and, 45
accordingly, in this section the expression “ corporate or other body ”
does not include a local authority within the meaning of the said
Act.

(2) Whenever persons acting as or purporting to be a corporate or other body borrow by way of local loan in purported exercise of the powers of such body and the lender makes such loan in good faith and without notice that such persons are not lawfully constituted as such body, the following provisions shall have effect in favour of such lender or any person claiming through or under him as against such body, that is to say:—

10 (a) such persons shall be deemed, for the purposes of the transaction consisting of such borrowing and lending, to have been lawfully constituted as such body, and accordingly such body shall be liable for the repayment of the money so borrowed and lent and the payment of interest thereon in accordance with the terms on which such money was so borrowed and lent to the same extent (if any) as such body would have been so liable if such persons had in fact been lawfully constituted as such body;

15 (b) every mortgage or other security given by such persons and purporting to be given by such body to such lender for securing the repayment of such money and the payment of the interest thereon shall, in the hands of such lender or any person claiming through or under him, be valid and enforceable against such body to the same extent (if any) as such mortgage or other security would have been so valid and enforceable if such persons had in fact been lawfully constituted as such body;

20 (c) no part of the transaction consisting of such borrowing and lending shall be invalid or capable of being questioned on the ground that such persons were not lawfully constituted as such body.

25 (3) Whenever a corporate or other body borrows, or is deemed by the foregoing sub-section of this section to borrow, by way of local loan under or in purported exercise of the powers of such body and the lender makes such loan in good faith, the following provisions shall have effect in favour of such lender or any person claiming through or under him as against such body, that is to say:—

30 (a) neither such borrowing and lending nor any mortgage or other security given or purported to be given by such body to such lender for securing the repayment of the money borrowed and the payment of the interest thereon shall be invalidated or questioned on account of any illegality or irregularity in the constitution of such body or the election of any of the members thereof;

35 (b) such lender shall not be concerned to inquire whether the purpose for which such money is borrowed by such body is or is not a purpose for which such body is authorised by law to borrow money or whether such money does or does not exceed in amount any limit on borrowing by such body, and such lender shall not be prejudiced or affected by the fact (if it exists) that such purpose is, in whole or in part, not so authorised or that such money exceeds in amount any such limit;

40 (c) such lender shall not be concerned to inquire whether any meeting of such body was or was not properly convened or constituted, or whether any particular notice to the members of such body was or was not duly given, or whether the proceedings at any meeting of such body were or were not legal and regular;

45 (d) where such body could not lawfully borrow such money without the sanction or the consent of any Minister of State, and such sanction or consent (as the case may be) was given or purported to be given by such Minister, such lender shall not be concerned to inquire whether any statutory condition precedent to the giving of such sanction or consent was or was not duly complied with, and such lender shall not be prejudiced or affected by the fact (if it exists) that any such condition precedent

was not complied with by the person (whether such Minister, such body, or any other person) charged with the duty of complying therewith;

(e) such lender shall not be concerned to see to the application of such money by such body or be prejudiced or affected by any misapplication of such money or any part thereof by such body or any of its officers. 5

(4) This section shall be deemed to have come into operation on and to have had effect as on and from the 6th day of December, 1922, and shall accordingly apply and be deemed always to have applied to transactions commenced after that date and before the passing of this Act (whether completed before or pending at such passing) as well as to transactions commenced after the passing of this Act. 10

Persons by whom local loans can be made.

5.—(1) Notwithstanding anything contained in any other enactment, every local loan made by means of an issue from the fund may be made either by the Minister or by any other person (including, in particular, the Commissioners of Public Works in Ireland) on the direction or with the authority of the Minister. 15

(2) This section shall be deemed to have come into operation on and to have had effect as on and from the passing of the Principal Act and shall accordingly apply and be deemed always to have applied to local loans made by means of issues from the fund after the passing of the Principal Act and before the passing of this Act as well as to local loans so made after the passing of this Act. 20 25

Transfer of certain powers to Commissioners of Public Works.

6.—(1) The power of making local loans transferred by virtue of the Ministry of Transport (Commissioners of Public Works in Ireland Transfer and Exception of Powers) Order, 1919, is hereby transferred to the Commissioners of Public Works in Ireland.

(2) This section shall be deemed to have come into operation on and to have had effect as on and from the 6th day of December, 1922, and, to that intent, every local loan which was made by the Commissioners of Public Works in Ireland (whether as agents for the Minister for Industry and Commerce or otherwise) after the 6th day of December, 1922, and before the passing of this Act and which was a local loan the power to make which was transferred by virtue of the Ministry of Transport (Commissioners of Public Works in Ireland Transfer and Exception of Powers) Order, 1919, shall for all purposes be regarded as having been and shall be deemed always to have been made by the said Commissioners as principals in accordance with this section and every mortgage or other security given for securing such loan shall be construed and have effect accordingly. 30 35 40

Amendment of sub-section (3) of section 3 of the Principal Act.

7.—Sub-section (3) of section 3 of the Principal Act shall have effect and shall be deemed always to have had effect as if the said sub-section provided that its provisions shall have effect notwithstanding any provision to the contrary (whether of general or specific application) contained in any other enactment. 45

Disposition of certain sums.

8.—Every sum which before the passing of the Principal Act and after the 6th day of December, 1922, was paid or was by law applicable in or towards the discharge of the principal or the interest of a local loan and was carried into the fund then maintained by the Minister and then generally known as the local loans fund shall, notwithstanding any provision to the contrary (whether of general or specific application) contained in any enactment, be deemed to have been properly carried into the said fund. 50 55

Short title and collective citation.

9.—(1) This Act may be cited as the Local Loans Fund (Amendment) Act, 1940.

(2) The Local Loans Fund Acts, 1935 and 1937, and this Act may be cited together as the Local Loans Fund Acts, 1935 to 1940. 60

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BILLE CISTE NA nIASACHTAI
AITIÚLA (LEASU), 1940.

BILLE

*(mar do tugadh isteach)
dá ngairmtear*

Acht chun an dlí bhaineas le hÍasachtaí
Aitiúla do leasú agus chun Achtanna Ciste
na nÍasachtaí Aitiúla, 1935 agus 1937, do
leasú agus do leathnú chun na críche sin.

*An tAire Riaghaltais Aiteamhail agus Sláinte
Poiblíde do thug isteach.*

*Do hordúodh, ag Dáil Eireann, do chló-
bhualadh, 7adh Lúnasa, 1940.*

BAILE ATHA CLIATH:
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Éire.

LOCAL LOANS FUND (AMENDMENT)
BILL, 1940.

BILL

*(as introduced)
entitled*

An Act to amend the law relating to Local Loans
and for that purpose to amend and extend
the Local Loans Fund Acts, 1935 and 1937.

*Introduced by the Minister for Local Govern-
ment and Public Health.*

*Ordered by Dáil Eireann, to be printed,
7th August, 1940.*

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