
**PUBLIC AUTHORITIES (OVERSEAS BORROWING)
ACT 1979**

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PUBLIC AUTHORITIES (OVERSEAS BORROWING)

—
No. 13 of 1979
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AN ACT to enable certain public authorities to raise loans from sources outside the Commonwealth.

[3 May 1979]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Public Authorities (Overseas Borrowing) Act 1979*. Short title.

2—(1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“ Minister ”, in relation to a prescribed public authority, means the Minister of the Crown for the time being administering the Act under which the authority is incorporated;

“ prescribed public authority ” means a public authority declared under subsection (2) to be a prescribed public authority;

“ public authority ” means a commission, board, authority, or other body that is incorporated by an Act.

(2) The Governor may, by order published in the *Gazette*, declare a public authority to be a prescribed public authority for the purposes of this Act.

Application.

3—(1) This Act applies to and in respect of a loan raised outside the Commonwealth by, and for the purposes of, a prescribed public authority where—

- (a) on the recommendation of the Minister and the Treasurer, the Governor, by instrument under his hand, approves the loan as being a loan to which this Act applies; and
- (b) notification of the approval is published in the *Gazette*.

(2) Except as expressly provided in this Act, the provisions of the Act by which the prescribed public authority is incorporated (being provisions with respect to the raising of loans or the borrowing of money) do not apply to or in respect of a loan to which this Act applies.

Power of prescribed authority to raise overseas loans.

4—(1) A prescribed public authority may, subject to and in accordance with this Act, raise a loan to which this Act applies for—

- (a) any purpose or object for which it is incorporated;
- (b) the renewal of another loan to which this Act applies; or
- (c) the discharge or partial discharge of any indebtedness or liability to the Treasurer, or to any other person or body.

(2) A loan raised under subsection (1) may be—

- (a) of such amount and in such currency;
- (b) obtained in such manner and on such terms and conditions; and
- (c) secured by such securities (if any),

as the Governor, on the recommendation of the Minister and the Treasurer, approves in the instrument referred to in section 3 (1) or in that instrument by reference to another instrument.

Loan to be exempt from stamp duty.

5—Any security or other instrument issued or executed by a prescribed public authority in respect of a loan to which this Act applies shall, both as regards its issue or execution and its transfer or assignment, be exempt from stamp duty that would, but for this section, be payable under the *Stamp Duties Act 1931*.

6—(1) The Governor—

(a) may, on the recommendation of the prescribed public authority concerned, appoint two or more persons to act on behalf of that authority for the purposes of—

Power of Governor to appoint persons to enter into securities, &c., on behalf of prescribed public authority.

(i) entering into any securities or other instruments in respect of a loan to which this Act applies;

(ii) signing, executing, or otherwise perfecting all such securities or other instruments; and

(iii) doing all such things as may be necessary or convenient to be done for the purpose of raising the loan; and

(b) may, on a similar recommendation, revoke or vary any such appointment and make any fresh appointment.

(2) An appointment, or the revocation or variation of an appointment, made under subsection (1) may be notified by the publication of a notice in the *Gazette* and the production of a copy of the *Gazette* containing such a notice shall, in favour of a lender, of the holder of any security referred to in that subsection, or of a person to whom the benefit under any instrument so referred to is assigned, be conclusive evidence of the appointment or, as the case may be, the revocation or variation of the appointment.

7—Where any loan to which this Act applies is made to a prescribed public authority, the due payment of any amount payable by the authority to the lender in respect of the loan is a charge on the income and revenue of the authority from whatever source arising and is guaranteed by the Treasurer, and, where any agreement to which the Treasurer is a party specifies any terms or conditions on or subject to which the due payment of those amounts is so guaranteed, the due payment of those amounts is so guaranteed on or subject to those terms and conditions.

Guarantee of repayment of loan, &c., by Treasurer.

8—An agreement with respect to a loan to which this Act applies may require the Treasurer to make any payment for which the prescribed public authority that is a party to the agreement would, under the agreement, be liable but for its being precluded from making the payment by any law in force in this State.

Provision in loan agreement requiring Treasurer to defray taxes and charges normally payable by lender.

Liability under sections 7 and 8 to be a permanent appropriation.

9—The Consolidated Revenue Fund is, by virtue of this section, appropriated for the purpose of meeting—

- (a) any liability in respect of a guarantee referred to in section 7; and
- (b) any liability of the Treasurer arising under an agreement referred to in section 8.

Sinking fund.

10—(1) Where a prescribed public authority has raised a loan to which this Act applies, it shall, if the Treasurer so requires, establish a sinking fund for the purpose of redeeming the loan and pay into the fund half-yearly an amount calculated as prescribed.

(2) When it is necessary to have resort to a sinking fund referred to in subsection (1) for the purpose of paying off either the whole or any part of the loan to which the fund relates, the authority may sell any securities in which the fund is invested or may obtain an advance on any such securities from any bank.

Protection of investors.

11—(1) A person making a loan to which this Act applies is not bound to inquire into the application of the loan or be in any way responsible for its non-application or misapplication.

(2) A notification in the *Gazette* of the approval of the Governor having been given to a loan to which this Act applies shall, in favour of the lender and of any holder of a security given by the prescribed public authority concerned, be conclusive evidence that all conditions precedent to the loan have been complied with.

Agreement to rank *pari passu* with other securities and agreements.

12—(1) Where—

- (a) a prescribed public authority is a party to an agreement with respect to a loan to which this Act applies;
- (b) the Act by which that authority is incorporated empowers that authority to borrow money by the issue of debentures, the creation and issue of inscribed stock, or the issue of any other form of securities; and
- (c) a provision of the Act referred to in paragraph (b) makes provision for the debentures, inscribed stock, or other form of securities to rank *pari passu* without any preference or priority one over another,

a reference in that provision to debentures, inscribed stock, or other form of securities shall be deemed to include a reference to the agreement.

(2) Where a prescribed public authority is a party to two or more agreements with respect to loans to which this Act applies and the Act by which that authority is incorporated does not make provision as referred to in subsection (1) (c), those agreements shall rank *pari passu* without any preference or priority one over another.

13—Where, in an agreement between a prescribed public authority and a lender with respect to a loan to which this Act applies, a provision of the Act by which that authority is incorporated is specified as being a provision that applies to and in respect of the loan or as being a provision that, with such modifications or additions as are so specified applies to and in respect of the loan, that provision applies, or applies with those modifications or additions, as the case may be, to and in respect of the loan.

Application of other statutory provisions to agreement with respect to loan for which this Act applies.

14—The Governor may make regulations for the purposes of this Act.

Regulations.

