

FINANCE DEPARTMENT.

FINANCE (BUDGET) DEPARTMENT.

(The Myanmar Local Authorities Loans rules)

No.1

Rangoon, the 4th January 1938.

[Amendment : 18.06.1989]

No.1.- The Governor of Myanmar makes the following rules under sub-section (1) of section 4 of the Local Authorities Loans Act. The rules published in this Department Notification No.38, dated the 22nd May 1933, as subsequently amended, are hereby superseded:-

1. Short title, commencement and supersession of former Rules-

- (1) These rules may be called **the Myanmar Local Authorities Loans Rules**.
- (2) They shall come into force on the 1st February 1938.
- (3) The Local Authorities Loans Rules, 1915, published with the Government of India Notification in the Finance Department No. 1020A, dated the 10th November 1914, as subsequently amended, are superseded in their application to Myanmar except as regards money borrowed under those rules.

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2. Interpretation. - In these rules-

- (1) **“The Act”** means the Local Authorities Loans Act;
- (2) **“Loan”** means a loan made, taken or raised, under the Act;
- (3) **“Government Loan”** means a loan taken from the revenues of Myanmar;
- (4) **“Non-Government Loan”** means a loan raised with the sanction of the Governor otherwise than from the revenues of Myanmar; and
- (5) **“Term of a loan”** means the period elapsing between the date on which the loan is completely made, taken or raised, and the date on which it is completely repaid.

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3. Limitation of borrowing power. - A local authority shall not borrow money for any of the purposes specified in clauses (i), (ii), (iii) or (iv) of sub-section (1) of section 3 of the Act, unless the work to be carried out is either-

- (a) within the local limits of the area subject to the control of the local authority, or
- (b) for the benefit of the inhabitants within these limits.

4. Term of loans. - The maximum term of a loan shall ordinarily not exceed thirty years and shall be as short as possible.

5. Application. - When a local authority desires to obtain a loan, it shall submit to Government-

- (a) an application showing-
 - (1) the purpose of purposes for which the loan is required and when the loan is required for any of the purposes specified in clauses (i), (ii), (iii) or (iv) of sub-section (1) of section 3 of the Act, an estimate of the cost of the entire work or such part of it as it is proposed to carry out from loan funds;
 - (2) the amount which it is proposed to borrow;
 - (3) the fund on the security of which it is proposed to borrow;
 - (4) the law under which the said fund is levied, received or held;
 - (5) the dates within which the money is to be borrowed and, when it is proposed to raise the loan in instalments, the amount of each instalment, the dates within which the first instalment is to be taken or raised, and the years in which it is intended to take or raise the other instalments;
 - (6) the rate of interest at which it is proposed to borrow;
 - (7) the term of years for which the money is to be borrowed, and the method by which it is to be repaid. If it is proposed to repay the loan by means of sinking fund, the rate of interest at which the improvement of such sinking fund is to be calculated shall be also stated:
- (b) a statement of all existing prior charges on its funds;
- (c) accounts showing the income and expenditure of the local authority for the last three financial years;
- (d) estimates of income and expenditure for the financial year or years in which the loan is to be raised or taken, showing provision for payment of interest and sinking fund charges, if any;
- (e) a copy of the orders of the proper authority, approving the plans and estimates when the loan is for a work requiring such approval under section 227 of the Myanmar Municipal Act, 1898, or under section 57 of the Myanmar Rural Self-Government Act, 1921, or under any other enactment or under rules issued by the Governor;
- (f) a declaration accepting the obligation to indemnify the revenues of Myanmar for any loss incurred if the loan or instalment thereof is not taken up within the dates agreed upon.

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6. Inquiry by the Government. - Such inquiry as the Governor deems to be necessary shall be made into the statements contained in the application and other documents accompanying it and into the utility of the purpose or purposes for which the loan is proposed.
7. Publication of Application, etc. - If it appears that the money ought to be borrowed, a copy of the application, and such particulars in regard to any inquiry made under Rule 6 as the Governor may think necessary, shall be published in the Gazette, and in such other manner as the Governor deems fit.
8. Disposal of Application after Publication. - After the expiry of one month from such publication and after having called for any further information which may be required and having considered any objections which may be preferred the Governor may-
 - (a) reject or postpone the application; or
 - (b) grant the loan, or sanction the raising of the loan.
9. Urgent Loans. - When a local authority in its application desires the immediate grant, or sanction to the raising, of a loan on the ground that funds are urgently needed for any of the purposes mentioned in clauses (ii), (iii), (iv) or (v) of sub-section (1) of section 3 of the Act, the Governor may, at any time after the receipt of the application, if he is satisfied that the loan is urgently needed for any such purpose or purposes, dispense with the requirements of Rules 6, 7 and 8.
10. Expenditure before complete sanction of Loans. - (1) When a loan is required to finance any work no liabilities or expenditure shall be incurred on the work until the loan for it has been sanctioned or raised, and the work itself has received the technical and administrative approval of the authority with whom the power of sanction rests.

(2) When any particular work forms part of a project or group of projects for which higher sanction is required, and a loan is required to finance the whole or any portion of the project or group of projects, no liabilities or expenditure shall be incurred on that work until sanction to the whole project or group of projects has been accorded by competent authority and until such loan as is required to enable the whole project or group of projects to be carried out has been sanctioned or raised.
- NOTE.** - A group of works which forms one project shall be considered as one work.
11. Conditions attaching to Sanctions-
 - I. The granting or sanctioning of a loan shall be subject to the following conditions: -
 - (1) In the case of every loan-

(a) the local authority shall pay the cost as determined by the Governor-

- (i) of any inquiry made under Rule 6;
- (ii) of any advertisements published under Rule 7;
- (iii) of inspections made, and other measures of control taken under Rule 12; and
- (iv) of any other proceedings taken by order of the Governor under these rules; and

(b) the local authority shall furnish to the Examiner, Local Fund Accounts, the Accountant-General, Myanmar, and the Government any information which they may require regarding its funds and regarding the expenditure of the loan.

(2) In the case of a Government loan, if the Governor considers that a local authority has failed to comply with any of the requirements of these rules, he may at any time order that no further payments shall be made on account of such loan and that any amount already advanced together with interest due thereon shall be repaid immediately.

(3) In the case of a non-Government loan, the local authority shall not, without the previous approval of the Governor, vary the dates within which the raising of the loan or of the first instalment of it, has been sanctioned: and that, if the loan is raised by instalments, the local authority shall report, for the previous approval of the Governor the dates within which each further instalments is to be raised.

II. The terms settled for the loan shall be strictly adhered to. Modifications of these terms in favour of the local authority may be made subsequently only for very special reason.

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12. Control and inspection of works. - The Governor may issue instructions-

- (a) For ascertaining and securing that the money borrowed is duly applied to the purpose for which it has been borrowed, and that the unexpended balance of the loan is not employed otherwise than in accordance with these rules.
- (b) Where the loan is taken for any of the purposes specified in clauses (i), (ii), (iii) or (iv) of sub-section (1) of section 3, for the proper inspection of the work to be carried out: provided that every such work and the accounts connected therewith shall be open at all times to the inspection of such officers or other persons as may be specified in the instructions.

13. Audit of Loan Accounts. - A periodical audit of the loan accounts of local authorities whose accounts are subject to audit by the Local Fund Audit Department or the Accountant-General's Office shall be

conducted by the Examiner of Local Fund Accounts or the Accountant-General, Myanmar, as the case may be. In all other cases, an audit shall be carried out at such intervals as the Examiner of Local Fund Accounts may direct, and shall be confined exclusively to the accounts of expenditure from the loan.

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14. **Procedure on Attachment.** - When the Governor decides to attach any funds under section 5 of the Act, the following procedure shall be observed, namely:-

- (a) A notice shall be issued to the local authority prohibiting the collection or management of such funds by the local authority and vesting the administration thereof in such officer as the Governor may appoint. Such notice shall be published in the Gazette; and in such other manner as the Governor may deem fit within the local limits of the area subject to the control of the local authority.
- (b) The officer appointed by the Governor under section 5 of the Act shall pay the moneys collected or received under attachment to the lender, or in the case of a Government loan, into the Government Treasury.
- (c) The said officer shall prepare the accounts of moneys so collected, and of the cost of collection, in such form as the Governor may from time to time direct. He shall deliver a copy of the accounts to the local authority, and shall cause a copy to be published in the Gazette.

15. **Unexpended Balances.** - If on the completion of the work or the closing of the accounts of the transaction for which a local authority has borrowed money, the Governor is satisfied that the whole of the money has not been spent on the purpose or purposes for which it was borrowed, the following consequences shall ensue, namely: -

- (a) **In the case of a Government Loan.** - The unexpended balance shall be forthwith repaid to Government and the principal of the debt reduced by an equivalent amount. The Governor may direct such variation as he may consider necessary on this account in the instalments fixed for the liquidation of the loan.
- (b) **In the case of a non-Government Loan.** - The Governor may direct that the unexpended balance shall be utilized either in the reduction in any way of the debt of the local authority or in carrying out any works which that authority is legally authorized to carry out.

16. **Interest on Government Loans.** - The following provisions shall apply to interest on Government loans, namely: -

(1) Interest shall be charged at the rate agreed upon, yearly or half-yearly as the Governor may determine, and shall be reckoned and paid on each instalment from the date on which such instalment is received by the local authority.

(2) The Governor may, if he thinks fit, direct that compound interest at a rate not less than 8 per cent per annum shall be paid on all overdue instalments of interest, or of principal and interest.

NOTE. - Interest for any half-year (or year) is not 'due' until the end of the half-year (or year) during which it accrues. Payments falling due on Sundays, gazetted holidays or any public holidays under the Negotiable Instruments Act, should be made on the next reopening day.

17. Repayment of Government Loans taken in instalments. - If a Government loan is taken out in instalments and is repayable to Government in yearly or half-yearly instalments, or if yearly or half-yearly payments to a sinking fund are required, the first yearly or half-yearly payment shall not be demanded until one year, or six months, after the last instalment is taken. Meanwhile simple interest only shall be paid. But should it appear that there is undue delay on the part of the borrowing authority in taking out the last instalment of a loan, the Governor may at any time declare the loan closed, and order repayment of capital or payments to the sinking fund to begin. The Accountant-General shall bring to notice any delay that appears to him to require this remedy and he shall take such steps whether there are any dates fixed for the taking out of instalments by the local authority or not.

18. Period and Method of Repayment.- (1) Every non-Government loan raised shall be repaid within the time approved and by such of the following methods as may be approved, namely: -

- (a) by payment from a sinking fund established in respect of the loan;
- (b) by equal payments of principal and interest;
- (c) by equal payments of principal; or
- (d) by annual drawings.

(2) Every Government loan granted shall be repaid within the term and in the manner fixed by the Governor, by instalments on the dates on which or within which such instalments fall due.

(3) With the previous consent of the Governor the local authority may at any time repay the whole or any part of a Government loan in advance of the period fixed by the conditions of the loan.

NOTE. - Rebate of interest should not be allowed unless a scheme for expediting repayment has been proposed by the local authority concerned and sanctioned.

19. Sinking Fund. - (1) Whenever the repayment of a loan from a sinking fund has been sanctioned, the local authority shall establish such a fund and pay out of its income yearly or half-yearly as the case may be, to the credit of the fund, such sum as will, with accumulations of compound interest at the rate fixed by the Governor be sufficient after payment of all expenses to repay the loan within the period approved: provided that in the case of Government loans the yearly or half-yearly payments shall be made to the Accountant-General, Myanmar.

(2) The local authority shall make the first of such payments within one year from the date of taking or raising the loan, unless the Governor otherwise directs.

(3) If at any time the sum standing at the credit of the sinking fund established for the repayment of any loan is of such amount that, if allowed to accumulate at compound interest, it will be sufficient to repay the loan within the period approved, then with the permission of the Governor further payments into such fund may be discontinued.

(4) A local authority may apply the whole or any part of the sinking fund in or towards the discharge of the loan for which such fund was established and, until such loan is wholly discharge, shall not apply the same for any other purpose.

(5) The Accountant-General or the Examiner of Local Fund Accounts, in respect of local bodies under his audit control shall furnish annually to the local authority an account of its sinking fund and the local authority shall pay into the sinking fund any amount which may be certified to be deficient unless the Governor specially sanctions a gradual adjustment. If any dispute arises as to the accuracy of any certificate by the Accountant-General or the Examiner of Local Fund Accounts, the local authority may after making the payment refer the matter to Government, and the decision of the Governor shall be final.

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[ပင်ရင်း- ၈.၁၉၃၈ ရက်နေ့ထိ ပြန်တမ်းမှ ကူးယူတင်ပြသည်။]