

Assented to in Her Majesty's name this twentieth day of March, 1953.

E. BARING,  
Governor.

### ORDINANCE No. 9 of 1953

#### ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title.	10—Discharge of security on repayment of the loan.
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### AN ORDINANCE TO FACILITATE THE BORROWING BY LOCAL GOVERNMENT AUTHORITIES OF MONEY FOR CAPITAL DEVELOPMENT, TO ESTABLISH A LOCAL GOVERNMENT LOANS AUTHORITY AND A FUND FOR THAT PURPOSE; AND FOR PURPOSES CONNECTED THEREWITH

20th March, 1953

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Local Government Loans Ordinance, 1953.

2. In this Ordinance, unless the context otherwise requires—

“the Authority” means the Local Government Loans Authority established by section 3 of this Ordinance;

“the Fund” means the Local Government Loans Fund established by section 6 of this Ordinance;

“local authority” means a municipal council or municipal board constituted under the provisions of the Municipalities Ordinance, the district commissioner administering a township, a district council constituted under the provisions of the Local Government (District Councils) Ordinance, an African district council established under the African District Councils Ordinance, 1950, the council of a county, county district, or county division constituted under the provisions of the Local Government (County Councils) Ordinance, 1952; Cap. 136.  
Cap. 140.  
No. 12 of 1950.  
No. 30 of 1952.

“Member” means the Member of the Executive Council of the Colony for the time being responsible for Local Government;

“Member for Finance” means the Member of the Executive Council of the Colony for the time being responsible for Finance;

“prescribed” means prescribed by regulations made by the Member;

“statutory securities” means any securities in which trustees are for the time being authorized by law to invest trust moneys, and any security created by a local authority other than securities transferable by delivery.

3. (1) There is hereby established a Local Government Loans Authority which shall be a body corporate by that name with perpetual succession and a common seal, and which shall exercise the duties and have the powers conferred upon it by this Ordinance. Establishment and constitution of Local Government Loans Authority

(2) The Authority shall consist of—

- (a) the Member, who shall be Chairman of the Authority;
- (b) a person to be appointed by the Member for Finance;
- (c) the Commissioner for Local Government;
- (d) the Local Government Inspector; and
- (e) such other persons as the Member may from time to time appoint.

(3) In the case of his absence from, or inability to attend any meeting of the Authority an officer mentioned in paragraph (c) or paragraph (d) of sub-section (2) of this section may be represented at such meeting by a deputy nominated by such officer, and any such deputy shall be deemed to be a duly appointed member of the Authority for the purposes of such meeting.

(4) Every member of the Authority appointed under paragraph (e) of sub-section (2) of this section shall hold office during the Member's pleasure and any person appointed under paragraph (b) of that sub-section shall hold office during the pleasure of the Member for Finance.

(5) The Authority shall have power to enter into contracts and to hold and dispose of property both moveable and immoveable, and may sue and be sued in its corporate name.

4. (1) In the absence of the Member from any meeting of the Authority a person shall be chosen, by the members present at the meeting, from their number, to preside at such meeting.

(2) At all meetings of the Authority three members, of whom not less than two are persons other than persons appointed under paragraph (e) of sub-section (2) of section 3 of this Ordinance, shall form a quorum.

(3) The Member, or other person acting as chairman of any meeting of the Authority, shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote; a decision of the majority of the members present and voting at a meeting of the Authority shall be deemed to be the decision of the Authority.

(4) The Authority shall have power to act notwithstanding a vacancy among the members thereof, and all acts done at any meeting of the Authority shall, notwithstanding that it was afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Authority, be as valid as if that defect had not existed.

(5) Subject to the provisions of this section the Authority shall have power to regulate its own procedure.

(6) The seal of the Authority shall be authenticated by the signatures of the Member and the Commissioner for Local Government and such seal shall be officially and judicially noticed.

(7) All documents, other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hand of the Commissioner for Local Government.

(8) It shall be the duty of the Commissioner for Local Government to carry into effect the decisions of the Authority.

Meetings and  
procedure of  
Authority.

5. (1) The Authority shall keep such capital, revenue and other accounts as the Member for Finance may from time to time require, and such accounts together with a balance sheet shall be audited annually by the Director of Audit appointed under the Audit Ordinance, 1952.

Accounts and  
report by  
Authority.

No. 14 of 1952.

(2) The Authority shall, as soon as practicable after the 31st day of December in every year, submit to the Member a report upon the administration of the affairs of the Authority and the working of the Fund during the preceding year together with the accounts and balance sheet duly audited in accordance with the provisions of sub-section (1) of this section.

(3) Every such report and all such accounts and balance sheets as are furnished to the Member under this section shall be laid by the Member upon the table of the Legislative Council as soon as may be after they are submitted to him.

6. (1) There is hereby established a Local Government Loans Fund under the control of the Authority, consisting of such securities and moneys and applicable to such purposes as are provided for by this Ordinance.

Establishment  
of Local  
Government  
Loans Fund.

(2) There shall, by virtue of this Ordinance and without further assurance, become vested in the Authority the right of the Government to demand, sue for and recover, and give receipts for, and the benefit of all securities for such loans made to local authorities by the Government out of the public revenues of the Colony as may be approved from time to time by Resolution of the Legislative Council to the extent to which such loans, at the date of the commencement of this Ordinance, remain outstanding; and all moneys received by the Authority on account of every such loan shall be carried to the Fund.

(3) There shall also be paid to the Authority and carried to the Fund—

(a) all such moneys as may from time to time be voted or appropriated by the Legislative Council for the purpose of providing loans to local authorities;

(b) all repayments of principal or interest made by any local authority on account of any loan referred to in sub-section (2) of this section;

(c) all repayments of principal or interest made by any local authority on account of any loan made by the Authority under the provisions of this Ordinance;

(d) all such moneys as may from time to time be borrowed by the Authority in exercise of the powers conferred by this Ordinance;

(e) all such moneys as may from time to time become due upon any investment made by the Authority in exercise of the powers conferred by this Ordinance.

(4) Every such loan as is referred to in sub-section (2) of this section shall be deemed for the purposes of sections 9, 10 and 11 of this Ordinance to be a loan made by the Authority under this Ordinance.

7. (1) The Authority may from time to time, in manner provided by this Ordinance, make loans to local authorities for such purposes as local authorities may be authorized by law to borrow money.

(2) The Authority may from time to time make to a local authority advances of moneys required for the proper discharge of the functions of the local authority.

(3) The Authority may from time to time make loans to the Central Housing Board appointed under the provisions of section 12 of the Housing Ordinance upon such terms and conditions as may be directed by the Member for Finance.

(4) Every loan made by the Authority under this Ordinance to a local authority shall bear interest at such rate and shall be repaid at such time and in such manner as the Authority may determine.

8. All moneys borrowed by a local authority from the Authority and all such loans as are referred to in sub-section (2) of section 6 of this Ordinance shall be charged indifferently on all the rates and revenues of the local authority.

9. (1) If any local authority having power to levy rates or taxes or impose and collect dues or cesses shall neglect to pay any moneys due to the Authority in respect of any loan granted under this Ordinance, the Governor in Council may, at any time after the expiry of sixty days from the date on which such moneys become due and payable, forthwith impose

Loans by the Authority and repayments thereof.

Cap. 142.

Charge of loan on rates and revenues of local authority.

Powers in relation to rate where default made.

and levy a rate or tax of sufficient amount which may be imposed and levied by the local authority, and impose and recover any dues or cesses which may be imposed and recovered by the local authority.

(2) For the purpose of this section the Governor in Council shall have all the powers vested in the local authority for imposing, levying and recovering rates upon all rateable property and improvements thereon within its jurisdiction and for imposing, levying and recovering taxes and for imposing and recovering such dues and cesses as aforesaid.

(3) The Governor in Council in making an estimate of the rate or tax to be levied or of the dues or cesses to be imposed for the purpose of paying any sum due to the Authority as aforesaid, may add such sum as the Governor in Council thinks sufficient for defraying, and may defray thereout, all costs, charges and expenses, including remuneration to any officer or other person employed, incurred in the execution of the powers conferred by this section or otherwise by reason of the default in payment of the sum due to the Authority as aforesaid.

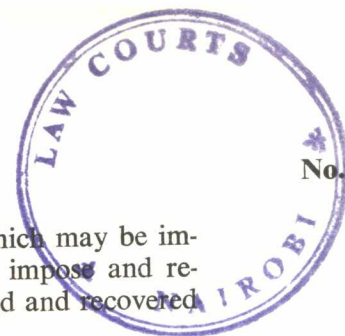
(4) If, after payment out of the proceeds of any such rate or tax or dues or cesses of the sum due to the Authority as aforesaid and of the expenses of and incidental to the imposition, levy and recovery of such rate or tax or dues or cesses, there remains any balance, such balance shall be paid over to the local authority whose default led to the exercise by the Governor in Council of his powers under this section.

10. Upon all money due from a local authority to the Authority being fully paid the Authority shall, when required, give to the local authority a receipt in writing for the same, and such further sufficient discharge (if any) as may seem to the Authority to be necessary, and upon such receipt being given the rates and revenues of the local authority shall be released from the charge created by section 8 of this Ordinance.

11. Where a loan is made by the Authority to meet any expenditure of a local authority which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, or for payment of interest thereon.

Discharge of security on repayment of the loan.

Charge of service of loan to particular account.



Borrowing by  
the Authority.

**12.** (1) The Authority may, with the consent of the Member for Finance, borrow such sums as may be required by the Authority in exercise of the powers conferred by this Ordinance.

(2) Where the Authority is authorized to borrow money, it may, subject to the provisions of this Ordinance, raise the money either—

- (a) by stock issued under this Ordinance; or
- (b) by local bonds issued under this Ordinance; or
- (c) in such other manner as may be approved by the Member for Finance:

Provided that no money may be raised by the Authority in any place outside the Colony except with the prior approval of the Secretary of State.

(3) All moneys borrowed by the Authority under this Ordinance shall be charged indifferently on all the revenues of the Authority.

Stock  
Regulations.

**13.** (1) For the purposes of any borrowing by the Authority by means of an issue of stock under this Ordinance, stock may be created, issued, transferred, dealt with and redeemed in such manner as may be prescribed by regulations made by the Member with the consent of the Member for Finance.

(2) Without prejudice to the generality of the above power, the regulations made under this section may provide for the discharge of any loan so raised and may provide for the consent of owners under disability and for the application or non-application of the Ordinances in the Colony relating to stamp duties (subject to the provisions of sections 14 and 16 of this Ordinance) and to cheques, and for the disposal of unclaimed dividends.

Provisions as  
to local bonds.

**14.** For the purposes of any borrowing by the Authority by means of an issue of local bonds under this Ordinance the following provisions shall have effect, that is to say, the bonds shall—

- (a) be secured upon all the property and revenues of the Authority;

(b) bear interest at such rate as the Authority may determine at the time of issue of the bonds;

(c) be issued in denominations of one hundred, two hundred, four hundred, one thousand and two thousand shillings and multiples of two thousand shillings;

(d) be issued for periods of not less than three years;

(e) be exempt from all stamp duties.

**15.** A trustee, as defined in the Trustees Ordinance, may invest any trust funds in his hands, whether at the time in a state of investment or not, in any stock or local bonds issued by the Authority under this Ordinance.

Stock and  
bonds to be  
trustee  
securities.  
Cap. 36.

**16.** Transfers of any stock or local bonds issued by the Authority under this Ordinance shall be exempt from all stamp duties.

Transfers of  
stock and  
bonds to be  
exempt from  
stamp duty.

**17.** If at any time hereafter an Ordinance is passed which appears to Her Majesty's Government in the United Kingdom to alter any of the provisions affecting any such stock as aforesaid to the injury of the holder thereof, or to involve a departure from the original contract in regard to such stock, that Ordinance may properly be disallowed.

Certain  
Ordinances  
may properly  
be disallowed

**18.** (1) If at any time any interest due on any stock remains unpaid for three months after demand in writing, the person entitled thereto may, without prejudice to any other remedy, apply to the Supreme Court of Kenya for a receiver to be appointed, and the court may, if it thinks fit, appoint a receiver on such terms as the court thinks fit.

Appointment  
of receiver.

(2) The court may confer on the receiver any of the powers of collecting, receiving and recovering the revenues of the Authority which are conferred upon the Authority by this Ordinance and any of the powers of imposing and levying rates and taxes and imposing and recovering dues and cesses which are conferred on the Governor in Council by this Ordinance.

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Regulations.

19. Subject to the provisions of this Ordinance the Member may make regulations prescribing anything required to be prescribed by this Ordinance and generally for carrying out the provisions of this Ordinance.

Savings.

20. Nothing in this Ordinance shall—

- (a) in any way prejudice or affect the rights of Her Majesty the Queen, Her Heirs and Successors, or of any body or bodies politic or corporate or other person or persons excepting only such as are mentioned in this Ordinance and those claiming by, from or under them;
- (b) prejudice or affect the priority of any security for a loan created by any local authority before the date of the commencement of this Ordinance.

Repeal of Cap. 141 and amendment of Ordinances.

21. (1) The Local Government (Loans) Ordinance is hereby repealed.

(2) The Ordinances specified in the first column of the Schedule to this Ordinance are amended in the manner specified in the second column of that Schedule.

SCHEDULE

FIRST COLUMN

Title

Townships Ordinance.

Chapter No.

133.

SECOND COLUMN

Amendments

(a) Insert after paragraph (b) of section 14 the following new paragraph—  
(c) interest and redemption charges on loans raised under the powers conferred by section 19A of this Ordinance.

(b) Insert immediately after section 19, the following new section—  
19A. (1) The district commissioner administering a township for which a township account is directed to be kept under section 12 of this Ordinance may, with the consent of the township committee, from time to time raise loans for such purposes in such amounts and upon such conditions as the Member of the Executive Council for the time being responsible for Local Government may approve.

Borrowing powers.

(2) All such loans shall be charged indifferently on all the revenues referred to in section 13 of this Ordinance, and all securities therefor, whether created before or after the date of the commencement of the Local Government Loans Ordinance, 1953, shall rank equally without any priority.

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(a) In section 97—

(i) Substitute for sub-section (1) thereof the following new sub-section—

(1) The Council may from time to time, by a majority of the councillors present at a meeting specially convened for the purpose, at which the majority voting shall not be less than a majority of the whole Council, raise loans for such purposes, in such amounts and on such conditions as the Member may approve:

Provided that no such loan shall be raised in any place outside the Colony except with the prior approval of the Secretary of State.

Municipalities Ordinance.

136.

FIRST COLUMN		SECOND COLUMN
Chapter No.	Title	Amendments
136. (Contd.)	Municipalities Ordinance.	<p>(ii) Substitute for sub-section (2) thereof, the following new sub-section—</p> <p>(2) All such loans shall be charged indifferently on all rates and revenues of the Council and all securities therefor shall rank equally without any priority:</p> <p>Provided that—</p> <p>(i) nothing in this sub-section contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of commencement of the Local Government Loans Ordinance, 1953;</p> <p>(ii) any such loan may in addition be charged by way of mortgage or charge upon any land vested in the Council, and any such mortgage or charge shall rank in priority according to the law for the time being in force in the Colony and all moneys thereby secured shall be recoverable and the Council shall have in respect of the mortgage or charge all such rights and remedies as are conferred by law upon mortgagees or chargees.</p> <p>(iii) Sub-section (4) thereof is amended by substituting for the words "property and revenues on which the loan is secured" appearing therein, the words "rates and revenues of the Council".</p>

Local Government Loans

FIRST COLUMN		SECOND COLUMN
Chapter No.	Title	Amendments
136. (Contd.)	Municipalities Ordinance.	<p>(iv) Substitute for sub-section (7) thereof the following new sub-section—</p> <p>(7) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.</p> <p>(b) In section 99 substitute for the words "property and revenues, present and future", appearing in sub-section (3) thereof, the words "rates and revenues".</p> <p>In section 118—</p> <p>(i) Substitute for sub-section (1) thereof the following new sub-section—</p> <p>(1) The Council may from time to time, by a majority of the councillors present at a meeting specially convened for the purpose, at which the majority voting shall not be less than a majority of the whole Council, raise loans for such purposes, in such amounts and on such conditions as the Member may approve:</p> <p>Provided that no such loan shall be raised in any place outside the Colony except with the prior approval of the Secretary of State.</p> <p>(ii) Substitute for sub-section (2) thereof the following new sub-section—</p> <p>(2) All such loans shall be charged indifferently on all rates and revenues of the Council and all securities therefor and shall rank equally without any priority:</p>
140.	Local Government (District Councils) Ordinance.	

Local Government Loans

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SECOND COLUMN  
Amendments

Chapter No.	Title
140. (Contd.)	Local Government (District Councils) Ordinance.

Provided that—

(i) nothing in this sub-section contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of the commencement of the Local Government Loans Ordinance, 1953;

(ii) any such loan may in addition be charged by way of mortgage or charge upon any land vested in the Council, and any such mortgage or charge shall rank in priority according to the law for the time being in force in the Colony and all moneys thereby secured shall be recoverable and the Council shall have in respect of the mortgage or charge all such rights and remedies as are conferred by law upon mortgagees or chargees.

(iii) Sub-section (3) thereof is amended by substituting for the words "property and revenues on which the loan is secured", appearing therein, the words "rates and revenues of the Council".

(iv) Substitute for sub-section (6) thereof the following new sub-section—

(6) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.

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SECOND COLUMN  
Amendments

SCHEDULE—(Contd.)

Chapter No.	Title
No. 12 of 1950.	African District Councils Ordinance, 1950.

In section 32—

(i) Sub-section (1) thereof is amended by deleting the words "for Finance" appearing therein.

(ii) Substitute for sub-section (2) thereof the following new sub-section—

(2) All such loans shall be charged indifferently on all rates and revenues of the Council and all securities therefor shall rank equally without any priority:

Provided that nothing in this sub-section contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of the commencement of the Local Government Loans Ordinance, 1953.

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(iii) The following new sub-section to be inserted immediately after sub-section (4) thereof—

(5) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.

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FIRST COLUMN		SECOND COLUMN
Title		Amendments
Chapter No. No. 30 of 1952.	Local Government (County Councils) Ordinance, 1952.	<p>(a) In section 145—</p> <p>(i) Substitute for sub-section (1) thereof the following new sub-section—</p> <p>(1) A Council may from time to time raise loans for such purposes, in such amounts and upon such conditions as the Member may approve.</p> <p>(ii) Substitute for sub-section (2) thereof the following new sub-section—</p> <p>(2) All such loans shall be charged indifferently on all the rates and revenues of the Council and all securities therefor shall rank equally without any priority:</p> <p>Provided that—</p> <p>(i) nothing in this sub-section contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of commencement of the Local Government Loans Authority Ordinance, 1953;</p> <p>(ii) any such loan may in addition be charged by way of mortgage or charge upon any land vested in the Council, and any such mortgage or charge shall rank in priority according to the law for the time being in force in the Colony and all moneys thereby secured shall be recoverable and the Council shall have in respect of the mortgage or charge all such rights and remedies as are conferred by law upon mortgagees or chargees.</p>

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FIRST COLUMN		SECOND COLUMN
Title		Amendments
Chapter No. No. 30 of 1952 (Contd.)	Local Government (County Councils) Ordinance, 1952.	<p>(iii) Sub-section (3) thereof is amended by substituting for the words "property and revenues and any land on which the loan is charged or is secured", appearing therein, the words "rates and revenues of the Council".</p> <p>(iv) Substitute for sub-section (6) thereof the following new sub-section—</p> <p>(6) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.</p> <p>(b) In section 146 substitute for the words "property and revenues, present and future", appearing in sub-section (3) thereof, the words "rates and revenues".</p>

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