
ISLE OF MAN LOANS (AMENDMENT) BILL 2020

Explanatory Memorandum

1. This Bill is promoted by the Hon. A. Cannan M.H.K.
2. *Clause 1* gives the short title of the resulting Act.
3. *Clause 2* deals with the commencement of the resulting Act.
4. *Clause 3* provides for the amendment of the Isle of Man Loans Act 1974 (the Act”) as set out in the following clauses.
5. *Clause 4* amends section 3(2) of the Act to increase the amount of money that the Government can borrow in advance of requirements and without Tynwald approval from £5,000,000 to £50,000,000. *Clause 4* also inserts a new subsection (3) into section 3 of the Act that requires the Treasury to inform Tynwald of any borrowing under section 3(2).
6. *Clause 5* substitutes section 4 of the Act. The substituted section 4(1) provides that the Government may borrow money under the Act on an unsecured basis, on a secured basis or by means of authorised securities. The substituted section 4(2) provides that any sums borrowed by the Government under the Act must be repaid within such period as the Treasury may from time to time approve (subject to a maximum period of 60 years from the date upon which the sums were originally borrowed).
7. *Clause 6* substitutes section 7 of the Act. The substituted section 7 provides that the Government may from time to time refinance any sums borrowed under the Act. Any such refinancing is subject to the period of time within which the sums borrowed under the Act must be repaid in accordance with section 4(2) of the Act. The substituted section 7(2) requires the Government to report any refinancing of its borrowing under the Act in its annual audited accounts.
8. *Clause 7* substitutes section 11 of the Act. The substituted section 11(1) gives the Treasury an enabling power to make an order to modify Schedule 1 to the Act as it thinks fit to ensure that the consolidated loans fund is accounted for in accordance with proper practices. “Proper practices” is defined in the substituted section 11(2) as meaning UK generally accepted accounting practices from time to time. The substituted section 11(3) gives the Treasury an enabling power to amend the definition of “proper practices” by way of an order.
9. *Clause 8* amends section 12 of the Act by inserting new subsections (1A) and (1B). The new subsection (1A) provides that the entities falling within paragraph (a) of the definition of “borrowing authority” (as inserted by clause 10(a)) are authorised to borrow money under section 12 if it is for the purpose of the performance of its functions and the borrowing is approved by Tynwald. The new subsection (1B) clarifies that a company falling within paragraph (b) or

(c) of the definition of “borrowing authority” is authorised to borrow money under section 12 if it is not contrary to that company’s memorandum and articles of association. *Clause 8* will also substitute section 12(3). The substituted section 12(3) provides that the Government must repay every sum borrowed for the purpose of section 12 within one year after the borrowing authority has repaid its borrowing to the Government.

10. *Clause 9* amends section 16 of the Act to remove the reference to a specific paragraph of Schedule 1 to the Act.
11. *Clause 10* amends section 32 of the Act by substituting the definition of “borrowing authority” with a new definition and updating the definition of “Statutory Body”.
12. If approved, the resulting Act is not expected to have any significant financial or human resource implications in excess of the cost of any borrowing made under the Act.
13. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



Ellan Vannin

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ISLE OF MAN LOANS (AMENDMENT) BILL 2020

- 1 **A BILL** to amend the Isle of Man Loans Act 1974 to make provision about the
 2 borrowing powers of Government; the consolidated loans fund; borrowing
 3 authorities; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

4 **PART 1 – INTRODUCTORY**

5 **1 Short title**

6 The short title of this Act is the Isle of Man Loans (Amendment) Act 2020.

7 **2 Commencement**

8 (1) This Act comes into operation on such day or days as the Treasury may
 9 by order appoint.

10 (2) An order under subsection (1) may contain such consequential,
 11 incidental, supplementary, saving, transitional and transitory provision,
 12 including provision modifying or amending Manx enactments, as the
 13 Treasury considers appropriate.

14 Tynwald procedure – laying only.

15 **PART 2 – AMENDMENT OF THE ISLE OF MAN LOANS ACT** 16 **1974**

17 **3 Amendment of the Isle of Man Loans Act 1974**

18 The *Isle of Man Loans Act 1974* is amended as follows.

19 **4 Power to borrow: section 3 amended**

20 (1) In section 3(2) (power to borrow) for “five million pounds” substitute
 21 “£50,000,000”.

1 (2) After section 3(2) insert —

2 “(3) If the Government borrows any sums under subsection (2), the
3 Treasury must lay before Tynwald, as soon as practicable after
4 any such sums have been borrowed, a report informing Tynwald
5 of —

- 6 (a) the amount borrowed; and
7 (b) the purpose of the borrowing.”

8 **5 Conditions of borrowing: section 4 substituted**

9 For section 4 (conditions of borrowing) substitute —

10 **“4 Conditions of borrowing**

11 (1) Sums borrowed under this Act may be borrowed by any of the
12 following means —

- 13 (a) on an unsecured basis;
14 (b) on the security of —
15 (i) real estate held in trust for Her Majesty, for the
16 public service of the Isle of Man;
17 (ii) the General Revenue or any part thereof,
18 without affecting any previously existing charges on such
19 estate or on the General Revenue; or
20 (c) by means of authorised securities.

21 (2) Sums borrowed under this Act must be repaid within such period
22 as the Treasury may from time to time approve provided that
23 such sums are repaid within 60 years from the date upon which
24 such sums were originally borrowed.”

25 **6 Re-borrowing: section 7 substituted**

26 For section 7 (re-borrowing) substitute —

27 **“7 Refinancing of borrowing**

28 (1) The Government may from time to time refinance any sums
29 borrowed under this Act as the Government thinks fit, whether or
30 not on the same terms or with the same lender.

31 This is subject to section 4(2).

32 (2) Government will report any refinancing of its borrowing under
33 this Act in its annual audited accounts.”

7 Power to vary or revoke provisions relating to consolidated loans fund: section 11 substituted

For section 11 (power to vary or revoke provisions of Schedule 1) substitute —

“11 Power to vary or revoke provisions of Schedule 1

- (1) The Treasury may, by order, modify Schedule 1 (provisions relating to consolidated loans fund) as it thinks fit to ensure that the Fund is accounted for in accordance with proper practices.
- Tynwald procedure – approval required.
- (2) In this section “proper practices” means UK generally accepted accounting practices from time to time.
- (3) The Treasury may, by order, amend the definition of “proper practices” in subsection (2) to provide for different internationally accepted accounting practices from time to time.
- Tynwald procedure – negative.”.

8 Power to lend to borrowing authorities: section 12 amended

(1) After section 12(1) (power to lend to borrowing authorities), insert —

- “(1A) Without prejudice to any borrowing power contained in any other Manx legislation, an entity falling within paragraph (a) of the definition of “borrowing authority” is authorised to borrow money under this section if it is for the purpose of the performance of its functions and such borrowing is approved by the Treasury.
- (1B) A company falling within paragraph (b) or (c) of the definition of “borrowing authority” is authorised to borrow money under this section if such borrowing is not contrary to that company’s memorandum and articles of association.”.

(2) For section 12(3) substitute —

- “(3) Every sum borrowed by the Government for the purpose of this section must be repaid within one year after every sum borrowed by the borrowing authority is repaid to the Government. “.

9 Power to use internal loans: section 16 amended

In section 16 (power to use internal loans), omit “paragraph 14 of”.

10 Interpretation: section 32 amended

In section 32 (interpretation) —

- (a) for the definition of “borrowing authority” substitute —

1 | “**borrowing authority**” means —

- 2 | (a) a Department, a Statutory Board, a local authority,
3 | Housing Committee and any other public body statutorily
4 | authorised to borrow;
- 5 | (b) any company, more than half of the equity share capital of
6 | which is beneficially owned by one or more Departments
7 | or by a Statutory Board or is otherwise held by or in trust
8 | for the Government; and
- 9 | (c) any company that is a subsidiary of a body referred to in
10 | paragraph (b);” and

- 11 | (b) in the definition of “Statutory Body”, for “Board of Tynwald, a
12 | Commercial Board, the Manx Utilities Authority, the Isle of Man
13 | Post Office Authority,” substitute “Department, a Statutory
14 | Board,”.
- 15 |

IN THE KEYS

ISLE OF MAN LOANS (AMENDMENT) BILL 2020

A **BILL** to amend the Isle of Man Loans Act 1974 to make provision about the borrowing powers of Government; the consolidated loans fund; borrowing authorities; and for connected purposes.

Leave to introduce given by the Council on 16 April 2020.

MR CANNAN

APRIL 2020