

核對表及指引
Check List and Instructions

借款條例
(第 61 章)
LOANS ORDINANCE
(CAP. 61)

如欲確定此乃本成文法則的最新核對表及指引，請參閱第 1 冊內的總核對表及指引第 II 部所載本成文法則的核對表及指引的刊印期數，該刊印期數應與此頁右下角所示的刊印期數相同。

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制定史

本為 1975 年第 39 號 — 1975 年編正版，1991 年第 47 號，1994 年第(C)46 號法律公告(中文真確本)，
1997 年第 362 號法律公告，1999 年第 68 號

Enactment History

Originally 39 of 1975 — R. Ed. 1975, 47 of 1991, L.N. (C) 46 of 1994 (Chinese authentic version), L.N. 362 of 1997, 68 of 1999

尚未實施 —

無

The following are not yet in operation —

Nil

第 61 章

借款條例

本條例旨在就籌集借款事以及就相關事宜訂定條文。

[1975 年 5 月 23 日]

1. 簡稱

本條例可引稱為《借款條例》。

2. 釋義

在本條例中，除文意另有所指外——

“借入” (borrow) 包括憑信貸安排取得款項的權力；

“發行” (issue) 就第 4(1A)(b) 條所述形式的債券、承付票或其他票據而言，指在有關的紀錄內，記入有關的資料或數據，以登記向某人發出的該等債券、承付票或票據，乃由該人持有； (由 1991 年第 47 號第 2 條增補)

“貸款人” (lender) 指政府根據本條例而向其借入款項的人。

3. 借入款項的權力

(1) 政府可向任何人借入款項，借入的方式、條款及規限條件由政府與該人以協議議定，而借入的款額及借款的目的則須由立法會藉決議批准。(由 1999 年第 68 號第 3 條修訂)

(2) 政府根據第 (1) 款所賦權力借入款項而與貸款人訂立的協議，須以香港政府的名義訂立，並可由財政司司長或財政司司長以書面授權的任何人代表政府簽署。

CHAPTER 61

LOANS

To make provision for the raising of loans and for matters connected therewith.

[23 May 1975]

1. Short title

This Ordinance may be cited as the Loans Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

“borrow” (借入) includes the power to draw upon a credit facility;

“issue” (發行), in relation to a bond, promissory note or other instrument in the form described in section 4(1A)(b), means registering the holding of such bond, note or instrument by the person to whom it is issued by entering the relevant information or data into the relevant record; (Added 47 of 1991 s. 2)

“lender” (貸款人) means any person from whom the Government borrows money under this Ordinance.

3. Power to borrow

(1) The Government may, in such manner and on such terms and subject to such conditions as may be agreed between the Government and any person, borrow from such person such sum or sums and for such purposes as may be approved by resolution of the Legislative Council.

(2) Any agreement between the Government and a lender in respect of sums borrowed under the powers conferred by subsection (1) shall be made in the name of the Government of Hong Kong and may be signed on behalf of the Government by the Financial Secretary, or by any person authorized by him in writing.

(3) 除第(4)款另有規定外，在本條所指的協議簽立後，財政司司長須在切實可行範圍內盡快安排將該協議的副本提交立法會會議席上省覽。(由 1991 年第 47 號第 3 條修訂；由 1999 年第 68 號第 3 條修訂)

(4) 任何與根據第 4 條發行的債券、承付票或其他票據有關的協議或其任何部分，財政司司長均有絕對酌情權，使其豁除於第(3)款的適用範圍外。(由 1991 年第 47 號第 3 條增補)

(由 1997 年第 362 號法律公告修訂)

4. 發行包括債券在內的票據的權力

(1) 凡政府根據本條例借入款項而與貸款人訂立協議，為施行該協議的條款，政府可按此需要發行債券、承付票或其他票據，而發行條款及條件亦按此需要而定。

(1A) 政府根據第(1)款發行的債券、承付票或其他票據，可採用以下形式——

(a) 書面文件；或

(b) 以非可閱的形式記錄(不論是以電腦或其他方式記錄)，但能夠以可閱形式複製出示的資料或數據。(由 1991 年第 47 號第 4 條增補)

(2) 政府根據第(1)款發行的債券、承付票或其他票據，凡是以書面文件形式發行的，均可由財政司司長或財政司司長以書面授權的任何人代表政府簽署。(由 1991 年第 47 號第 4 條修訂；由 1997 年第 362 號法律公告修訂)

5. 借款的撥用及押記

(1) 除為政府一般收入的目的而借入的款項外，政府根據本條例借入的款項，須按借入款項的目的而運用及撥用：

但如該款項有任何部分不能運用於該等目的，則可運用於財政司司長所批准的其他目的。(由 1997 年第 362 號法律公告修訂)

(2) 凡根據本條例為某些目的而借入的款項未能即時可供動用，而與該等目的有關的支出又必須支付，則該等支出須以預支方式記帳，以待日後付還，而在任何財政年度內，與任何目的有關的預支最高款額，須由立法會藉決議批准。(由 1999 年第 68 號第 3 條修訂)

(3) 根據本條例借入的款項及其所有利息與其他費用，須以香港政府一般收入及資產作為押記及從中支付。

(3) Subject to subsection (4), as soon as practicable after the execution of an agreement under this section, the Financial Secretary shall cause a copy of the agreement to be laid on the table of the Legislative Council. (Amended 47 of 1991 s. 3)

(4) The Financial Secretary may, in his absolute discretion, exclude from the application of subsection (3) any agreement, or any part thereof, which relates to the issue of any bond, promissory note or other instrument issued under section 4. (Added 47 of 1991 s. 3)

4. Power to issue instruments including bonds

(1) The Government may issue such bonds, promissory notes or other instruments on such terms and conditions as may be necessary for the purpose of giving effect to the terms of any agreement which may be entered into by it with a lender in respect of any borrowing under this Ordinance.

(1A) A bond, promissory note or other instrument issued by the Government under subsection (1) may take the form of—

(a) a written document; or

(b) information or data which is recorded (whether by means of a computer or otherwise) in a non-legible form but is capable of being reproduced in a legible form. (Added 47 of 1991 s. 4)

(2) Any bond, promissory note or other instrument issued by the Government under subsection (1) may, where it is in the form of a written document, be signed on behalf of the Government by the Financial Secretary or by any person authorized by him in writing. (Amended 47 of 1991 s. 4)

5. Appropriation and charge of loans

(1) Any sums borrowed by the Government under this Ordinance shall, except in the case of sums borrowed for the purposes of the general revenue, be applied and are appropriated to the purposes for which they were borrowed:

Provided that any part of such a sum which cannot be applied to those purposes may be applied to such other purposes as may be approved by the Financial Secretary.

(2) Where sums borrowed under this Ordinance are not immediately available and expenditure in respect of the purpose for which they were borrowed must be met, such expenditure shall be charged as an advance pending reimbursement and the maximum amount which may be so advanced in any financial year in connexion with any purpose shall be approved by resolution of the Legislative Council.

(3) Any sum borrowed under this Ordinance and all interest and other charges thereon are hereby charged upon and shall be payable out of the general revenues and assets of Hong Kong.

(4) 籌集任何借款而引致的開支或附帶引起的開支，可從該筆借入款項中扣除。

(4) Any expenses of or incidental to the raising of a loan may be defrayed from the sums borrowed.

6. 履行協議所訂的責任

(1) 即使任何其他法律另有規定，政府就根據本條例借入款項而與貸款人訂立的協議，及政府依據任何該等協議而發行的債券、承付票或其他票據，以及政府就任何該等協議、債券、承付票或其他票據而給予的承諾，均屬有效及可予執行，並依照其各別的條款具有十足效力及作用。

(2) 凡政府根據本條例借入款項而與貸款人訂立協議或發行債券、承付票或其他票據，或任何人根據任何該等協議、債券、承付票或票據而收得利息或其他收入，因該等協議、債券、承付票、票據、利息或收入而須根據任何條例繳交的稅項、費用或收費，均可由行政長官在憲報刊登命令予以減免。（由 1999 年第 68 號第 3 條修訂）

6. Implementation of obligations under agreements

(1) Notwithstanding anything contained in any other law, an agreement concluded with a lender in respect of any borrowing under this Ordinance and any bond, promissory note or other instrument issued pursuant to any such agreement and any undertaking given in respect of any such agreement, bond, promissory note or instrument by the Government shall be valid and enforceable and have full force and effect in accordance with their respective terms.

(2) The Chief Executive may, by order published in the Gazette, provide for the remission of any tax, duty, charge or fee payable under any Ordinance in respect of any agreement, bond, promissory note or instrument concluded with a lender or issued in connexion with any borrowing under this Ordinance or in respect of any payment of interest or otherwise under any such agreement, bond, promissory note or instrument. (*Amended 68 of 1999 s. 3*)

核對表及指引
Check List and Instructions

立法局決議
(第 61 章，附屬法例 A)

RESOLUTIONS OF THE LEGISLATIVE COUNCIL
(CAP. 61 sub. leg. A)

如欲確定此乃本成文法則的最新核對表及指引，請參閱第 1 冊內的總核對表及指引第 II 部所載本成文法則的核對表及指引的刊印期數，該刊印期數應與此頁右下角所示的刊印期數相同。

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制定史

本為 1975 年第 151 號法律公告，1975 年第 231 號法律公告，1975 年編正版，1991 年第 398 號法律公告，1994 年第(C)46 號法律公告(中文真確本)

Enactment History

Originally L.N. 151 of 1975, L.N. 231 of 1975, R. Ed. 1975, L.N. 398 of 1991, L.N. (C) 46 of 1994 (Chinese authentic version)

尚未實施 —

無

The following are not yet in operation —

Nil

立法局決議

1. 立法局於 1975 年 6 月 18 日根據《借款條例》第 3(1) 條作出及通過的決議。
現行使《借款條例》第 3(1) 條所賦的權力，議決授權政府為政府一般收入的目的而借入一筆或多於一筆款項，總額以不超過相等於 6,500,000 英鎊的款項為限。
(1975 年第 151 號法律公告)
2. 立法局於 1975 年 10 月 1 日根據《借款條例》第 3(1) 條作出及通過的決議。
現行使《借款條例》第 3(1) 條所賦的權力，議決授權政府為政府一般收入的目的而借入一筆或多於一筆款項，總額以不超過相等於 6,000 萬美元的款項為限。本決議取代本局於 1975 年 8 月 13 日通過，並作為 1975 年第 197 號法律公告而刊登的決議。
(1975 年第 231 號法律公告)
3. 立法局於 1991 年 11 月 6 日根據《借款條例》第 3(1) 條作出及通過的決議。
現議決授權政府，為由根據《公共財政條例》(第 2 章) 第 29 條通過的決議設立的基本工程儲備基金及基本投資基金的目的，借入一筆或多於一筆款項，總額以不超過 \$5,000,000,000 為限。
(1991 年第 398 號法律公告)

RESOLUTIONS OF THE LEGISLATIVE COUNCIL

1. Resolution made and passed by the Legislative Council under section 3(1) of the Loans Ordinance on the 18th June 1975.
RESOLVED, in exercise of the powers conferred by section 3(1) of the Loans Ordinance, that the Government be authorized to borrow for the purposes of general revenue a sum or sums not exceeding in total the equivalent of £6,500,000 Sterling.
(L.N. 151 of 1975)
2. Resolution made and passed by the Legislative Council under section 3(1) of the Loans Ordinance on the 1st October 1975.
RESOLVED, in exercise of the powers conferred by section 3(1) of the Loans Ordinance and in substitution for the Resolution passed by this Council on the 13th August 1975 and published as Legal Notice 197 of 1975, that the Government be authorized to borrow for the purposes of general revenue a sum or sums not exceeding in total the equivalent of US\$60 million.
(L.N. 231 of 1975)
3. Resolution made and passed by the Legislative Council under section 3(1) of the Loans Ordinance on 6 November 1991.
RESOLVED that the Government be authorized to borrow a sum or sums not exceeding in total \$5,000,000,000 for the purposes of the Capital Works Reserve Fund or the Capital Investment Fund established by resolutions passed under section 29 of the Public Finance Ordinance (Cap. 2).
(L.N. 398 of 1991)