

S.212/01/2011

Circular No. 3/2011 CONTROL OF SECURED BORROWINGS BY GENERAL GOVERNMENT

4th February 2011

To all Secretaries General

VERY IMPORTANT AND URGENT

I am writing to bring your attention to new statutory arrangements required under S.I. No. 40 of 2011, General Government Secured Borrowings Order 2011, a copy of which is attached, for your immediate attention. The purpose of the S.I. is to give effect to Sections 67 of the Credit Institutions (Stabilisation) Act, 2010 (copy of which is also attached), which provides that secured borrowing by the prescribed persons and bodies requires the consent of the Minister for Finance.

In particular, I wish to bring the obligations of the Order to your attention. Please ensure that this Circular is brought to the attention of all the votes, non-market agencies and extra budgetary funds under your Department's aegis, as set out in the Schedule to S.I. No. 40 of 2011.

With effect from, in the case of local authorities, 23rd December 2010 (when the Credit Institutions (Stabilisation Act), 2010, became law) and, in the case of all other entities, from 27th January 2011 (when S.I. 40 of 2011 was signed), **the consent of the Minister for Finance to engage in secured borrowing (see Section 67.(2) of the Credit Institutions (Stabilisation) Act), 2010, is necessary and must be sought in advance.**

This requirement in law is that **a local authority or a person or body (including Departments) in the Schedule “shall not mortgage, pledge or encumber its own assets or revenues to secure any present or future indebtedness or any guarantee or indemnity given in respect of such indebtedness without the consent of the Minister” for Finance.** This is required in order to comply with the loan agreements with both the European Financial Stabilisation Mechanism (EFSM) and the European Financial Stability Facility (EFSF) under the EU – IMF support programme. Any such application should be submitted in the first instance to Central Capital Unit, Department of Finance, Upper Merrion Street, Phone (01) 6045547.

This Department will maintain a register of all such encumbrances. **I would ask that you provide this Department with a list of all current encumbrances held both by your Department and each body under your Department's aegis as specified in the Act, by close of business on Friday 11 February, 2011.** Your response should include

nil replies where appropriate. Please send your response to the Central Capital Unit, Department of Finance, Upper Merrion Street, Phone (01) 6045547 (cipu@finance.gov.ie). Your response should nominate the contact person in your Department and contact details for any future correspondence. Please use Circular 3/2011 in the subject line of your email.

It would be appreciated if you could also confirm that this Circular has been brought to the attention of all the relevant bodies, funds and entities under your Department's aegis.

Central Capital Section
Department of Finance