



EPD 047/001/14

Circular No. 1/2014

CONTROL OF SECURED BORROWINGS BY GENERAL GOVERNMENT

28th March 2014

To all Secretaries General

1. Further to Finance Circular 3 of 2011, and to the General Government Secured Borrowings Order 2014 (Statutory Instrument (S.I.) No. 120 of 2014) which has updated¹ and replaced the General Government Secured Borrowings Order 2011 (S.I. No 40 of 2011), I am writing to bring your attention to the statutory arrangements required under the new Statutory Instrument (No. 120 of 2014), a copy of which is attached, for your immediate attention. The purpose of the S.I. is to give effect to Section 67 of the Credit Institutions (Stabilisation) Act, 2010 (a 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. It has been revised to allow for changes and additions to the list of bodies in the schedule which are prescribed for the purposes of Section 67 of the Credit Institutions (Stabilisation) Act 2010 (No. 36 of 2010).
2. 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. 120 of 2014.
3. **Under this Statutory Instrument, 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.**
4. This requirement is with effect from, in the case of local authorities, 23rd December 2010 (when the Credit Institutions (Stabilisation Act), 2010, became law), in the case of all other entities included in S.I. No 40 of 2011, from 27th January 2011 (when S.I. 40 of 2011 was signed), in the case of those bodies included for the first time in S.I. No. 120 of 2014 (including the Health Service Executive, RTÉ, Irish Research Council, Quality and Qualifications Ireland, and a number of categories of school) from 5th March 2014 when S.I. No. 120 of 2014 was signed, and SOLAS where the date of its establishment is the effective date.

¹ It updates the list of Government Departments to reflect the current position and, amends the titles of some bodies to the same effect. It also includes certain bodies for the first time in the list of those bodies subject to section 67(5) of the Credit Institutions (Stabilisation) Act 2010 (No. 36 of 2010), and remove others.

5. This requirement in law is that a **local authority or a person or body (including Government 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 the European Financial Stabilisation Mechanism (EFSM), the European Financial Stability Facility (EFSF) under the EU – IMF support programme, and the UK, Sweden and Denmark under the Bilateral Loan agreements. The requirement remains in place for the duration of the loans, i.e. it did not expire at the end of the programme period. Any such application should be submitted in the first instance to the General Government Secured Borrowings Unit, EU & International Division, Department of Finance, Upper Merrion Street, Dublin 2, Phone (01) 6045815 (cipu@finance.gov.ie).
6. The inclusion of bodies in the schedule is solely to ensure compliance with the terms and conditions of our loan agreements, and reflects the inclusion, for statistical measurement purposes, of the bodies in the definition of general government used by the Central Statistics Office. The institutional position of the bodies concerned is not altered either by their inclusion in the schedule to the S.I. or in the definition of general government.
7. In relation to the categories of school included in S.I. No. 120 of 2014 for the first time as being subject to Section 67 of the Credit Institutions (Stabilisation) Act 2010 we would wish to make it clear that the restriction on encumbrances for which Ministerial consent is required applies only to assets owned by the schools concerned being used as security, and not those assets owned by any patron thereof.
8. As regards the schedule, if any Department considers that a body should be included (or excluded), it should assess whether a body (hereafter called a unit) as a non-commercial semi-state body should be included in our accounting for **General Government Deficit and Debt** purposes. A unit must be considered an ‘institutional unit’, in other words, it must have autonomy of decision in respect of its principal function. This means that a unit must:
 - (a) be entitled to own goods or assets in its own right; it will therefore be able to exchange the ownership of goods or assets in transactions with other institutional units;
 - (b) be able to take economic decisions and engage in economic activities for which it is itself held to be directly responsible and accountable at law; and,
 - (c) be able to incur liabilities on its own behalf, to take on other obligations or further commitments and to enter into contracts.
9. In addition, it must keep a complete set of accounts, i.e. a unit must keep accounting records covering all its economic and financial transactions carried out during the accounting period, as well as a balance sheet of assets and liabilities.
10. It is important to note that the list of units which the CSO submits to Eurostat as the list of non-commercial semi-state bodies captured for **General Government (GG) Deficit and Debt** purposes is **not** an exhaustive list of bodies in existence under the

aegis of respective Departments. Other bodies are not considered institutional units in their own right, and they are instead just classified with their parent unit or Department for the purpose of measuring the GG Deficit and Debt.

11. Therefore, Departments may examine the other bodies under their remit, and decide, with regard to the above guidelines, whether any of them need to be listed separately for the purposes of this particular Statutory Instrument. If they do not have the autonomy to incur liabilities etc, or indeed are already covered by other legislation which prohibits this, then it would seem that their inclusion is not necessary.
12. If you have any bodies under your aegis that conform to this description, please supply details to the General Government Secured Borrowings Unit, EU & International Division, Department of Finance, Upper Merrion Street, Phone (01) 6045815, and we will refer them to the CSO for consideration as to their classification. On foot of this consideration, it is possible that the Minister for Finance may decide to revise the Schedule to this S.I. in due course.
13. All Departments, (in their own respect and in respect of the Local Authorities, agencies and other bodies under their aegis covered by the General Government Secured Borrowings Order 2011 (S.I No 40 of 2011)) are asked to confirm to this Department, that they have obtained the necessary consent from the Minister for Finance in respect of any secured borrowing in which they have engaged since they became subject to that Order (see paragraph 4 of this Circular).
14. All Departments should put in place measures designed to ensure that those bodies under their remit which are newly included in S.I. No. 120 of 2014 seek consent for all proposed encumbrances to be entered into on or after the date of its entering into operation (14 March 2014), and confirm to this Department that they have done so
15. This Department maintains a register of all such encumbrances.
16. 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.
17. Please send all responses in respect of paragraphs 13, 14 and 16, to the General Government Secured Borrowings Unit, EU & International Division, Department of Finance, Upper Merrion Street, Dublin 2, Phone (01) 604 5815 (cipu@finance.gov.ie) by close of business on Wednesday, 30th April 2014. Your response should also nominate the contact person/section in your Department and provide contact details for any future correspondence. Please use Circular 1/2014 as the reference in your letter or in the subject line of your email.



Michael J. McGrath
Assistant Secretary
EU & International Division
Department of Finance



STATUTORY INSTRUMENTS.

S.I. No. 120 of 2014



GENERAL GOVERNMENT SECURED BORROWINGS ORDER 2014

S.I. No. 120 of 2014

GENERAL GOVERNMENT SECURED BORROWINGS ORDER 2014

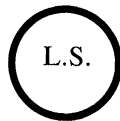
I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 67 (5) of the Credit Institutions (Stabilisation) Act 2010 (No. 36 of 2010), hereby make the following order:

1. (1) This Order may be cited as the General Government Secured Borrowings Order 2014.

(2) This order comes into operation on 14 March 2014.

2. The bodies listed in the schedule are prescribed for the purposes of Section 67 of the Credit Institutions (Stabilisation) Act 2010 (No. 36 of 2010).

3. This Order supersedes the General Government Secured Borrowings Order 2011 (No. 40 of 2011).



GIVEN under my Official Seal,
5 March 2014.

MICHAEL NOONAN TD,
Minister for Finance.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 7th March, 2014.*

Schedule

(a) Central Government

(i) Departments of State

Department of Agriculture, Food and the Marine
 Department of Arts, Heritage and the Gaeltacht
 Department of Children and Youth Affairs
 Department of Communications, Energy and Natural Resources
 Department of Defence
 Department of Education and Skills
 Department of Environment, Community and Local Government
 Department of Finance
 Department of Foreign Affairs and Trade
 Department of Health
 Department of Jobs, Enterprise and Innovation
 Department of Justice and Equality
 Department of Public Expenditure and Reform
 Department of Social Protection
 Department of the Taoiseach
 Department of Transport, Tourism and Sport

(ii) Additional Votes

The President's Establishment
 Office of the Attorney General
 Central Statistics Office
 Office of the Comptroller and Auditor General
 Office of the Appeals Commissioners (for the purposes of the Income Tax Acts)
 Office of the Revenue Commissioners
 Office of Public Works
 State Laboratory
 Secret Service
 Chief State Solicitor's Office (a component part of the Office of the Attorney General)
 Office of the Director of Public Prosecutions
 Valuation Office
 Public Appointments Service
 Office of the Commission for Public Service Appointments
 Office of the Ombudsman
 National Gallery
 Garda Síochána
 Irish Prison Service
 Courts Service
 Property Registration Authority
 Commissioners of Charitable Donations and Bequests for Ireland
 International Co-operation (Official Development Assistance, accounted for by the Office of the Minister for Foreign Affairs and Trade)
 Health Services Executive
 Army Pensions
 Superannuation and Retired Allowances

(b) Other Non-market Agencies included in Central Government Sector**(i) General**

An Bord Pleanála
Pobal
Bord Bia
Failte Ireland
Bord Iascaigh Mhara
Inland Fisheries Ireland
Data Protection Commissioner
Dublin Institute for Advanced Studies
Enterprise Ireland
Environmental Protection Agency
Equality Authority
SOLAS
Food Safety Authority of Ireland
Forfás
Grangegorman Development Agency
Health and Safety Authority
Health Service Executive
Higher Education Authority
Horse Racing Ireland
Housing Finance Agency
IDA Ireland
Irish Film Board
Irish Rail
Irish Research Council
Irish Sports Council
Irish Water Safety
Labour Relations Commission
Law Reform Commission
Legal Aid Board
Marine Institute
National Development Finance Agency (NDFA)
National Oil Reserve Agency
National Roads Authority
National Standards Authority of Ireland
National Treasury Management Agency (NTMA)
National Economic and Social Development Office
National Sports Campus Development Authority
Quality and Qualifications Ireland
Radiological Protection Institute of Ireland
Railway Procurement Agency (RPA)
Sea Fisheries Protection Authority
Teagasc
Teaching Council
The Arts Council (An Chomhairle Ealaíon)
Udaras Na Gaeltachta
National Disability Authority

Raidió Teilifís Éireann (RTÉ)
 TG4
 Voluntary Hospitals
 Voluntary Secondary Schools (non-fee-charging)
 Community Schools
 Comprehensive Schools
 Primary Schools (non-fee-charging)
 Certain Fee charging schools¹
 Western Development Commission

(ii) Institutes of Technology and other similar institutions

Athlone Institute of Technology,
 Institute of Technology Blanchardstown,
 Institute of Technology Carlow,
 Cork Institute of Technology,
 Dublin Institute of Technology
 Dundalk Institute of Technology,
 Dun Laoghaire Institute of Art, Design and Technology,
 Galway-Mayo Institute of Technology,
 Letterkenny Institute of Technology,
 Limerick Institute of Technology,
 Institute of Technology Sligo,
 Institute of Technology Tallaght,
 Institute of Technology Tralee,
 Waterford Institute of Technology.

(iii) Education and Training Boards

City of Dublin Education and Training Board
 Donegal Education and Training Board
 Kerry Education and Training Board
 Cork Education and Training Board
 Galway and Roscommon Education and Training Board
 Limerick and Clare Education and Training Board
 Cavan and Monaghan Education and Training Board
 Dublin and Dun Laoghaire Education and Training Board
 Kildare and Wicklow Education and Training Board
 Kilkenny and Carlow Education and Training Board
 Laois and Offaly Education and Training Board
 Longford and Westmeath Education and Training Board
 Louth and Meath Education and Training Board
 Mayo, Sligo and Leitrim Education and Training Board
 Tipperary Education and Training Board
 Waterford and Wexford Education and Training Board

(c) Extra Budgetary Funds included in Central Government Sector

Adult Education Organisations Fund

¹Fee-charging schools are classified into the General Government Sector where fee-income covers less than 50% of their operating costs (pay, purchases of goods and services and depreciation)

Bank Guarantee Scheme Fund
Bilateral and Other Aid Fund
Capital Service Redemption Account (CSRA)
Ciste Na Gaeilge
Carbon Fund
Department Of Education Scholarship Fund
Dormant Accounts Fund
Fishery Harbour Centres Fund
Fund For Cultural, Scientific Etc. Organisations
Fund for Organisations Promoting Ireland as An Educational Centre
Garda Siochána Reward Fund
Horse and Greyhound Racing Fund
Intestate Estates Fund Deposit Account
Local Authority Library and Archive Service
Local Government (Equalisation) Fund
Local Loans Fund
National Lottery Suspense Account
National Pensions Reserve Fund
National Training Fund
Plastic Bag/Ground Fill Levy Fund
Post Office Savings Bank Fund
Programme for Peace and Reconciliation
Provision and Renovation of Swimming Pools
Rent and Interest Account No. 3
Restricted Licences Conversion Fund
Residential Institutions Redress Scheme
Residential Institutions Education Fund
Scientific and Technological Education (Investment) Fund
Small Savings Reserve Fund (SSRF)
Social Insurance Fund
Special Account for Compensation of Hep C
Sundry Monies Deposit Account
Voluntary Housing Scheme
Western Investment Fund

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of this Order is to prescribe the persons and bodies subject to the provisions of Section 67 of the Credit Institutions (Stabilisation) Act 2010, which provides that secured borrowing by the prescribed persons and bodies requires the consent of the Minister for Finance.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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FOILSEACHÁIN RIALTAIS,
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