



EPD 047/011/2018

Circular No. 1/2018

CONTROL OF SECURED BORROWINGS BY GENERAL GOVERNMENT

18th July 2018

To all Secretaries General

1. Further to Finance Circular 1/2014, the Minister for Finance has updated the list of prescribed bodies which are subject to the provisions of Section 67 of the Credit Institutions (Stabilisation) Act, 2010. The revised schedule is set out in the **General Government Secured Borrowings Order 2018 (Statutory Instrument (S.I.) No. 118 of 2018)** which revokes and replaces the General Government Borrowing Order 2014 (S.I. No. 120 of 2014)
2. Section 67(2) provides that a local authority or a person or body (including Government Departments) prescribed by the Minister for Finance “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) and the European Financial Stability Facility (EFSF), under the EU-IMF support Programme, and the UK, under the Bilateral Loan agreement. The requirement remains in place for the full duration of the loans and did not expire at the end of the Programme period.
3. A copy of S.I. No. 118 of 2018 is attached for your attention. The Schedule to the S.I. (the Schedule) updates the list of prescribed bodies, amending the titles of some bodies to reflect the current position, including certain bodies for the first time and removing others.
4. 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 those bodies in the definition of general government used by the Central Statistics Office (CSO). Therefore updates of this nature to the list of prescribed bodies are required from time to time. 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.
5. 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. 118 of 2018 (the Schedule).
6. **Under this Statutory Instrument, and pursuant to S. 67(2) of the Credit Institutions (Stabilisation) Act 2010, the consent of the Minister for Finance to engage in secured borrowing is necessary and must be sought in advance by the bodies prescribed in the Schedule.**

7. Any such application should be submitted in the first instance to the Post-Programme Central Unit, EU & International Division, Department of Finance, Upper Merrion Street, Dublin 2, Phone 076 100 7598 (cipu@finance.gov.ie). Further information is available on the Department of Finance website.
8. As regards the Schedule, if any Department considers that a body should be included (or excluded), it should assess whether a body as a non-commercial semi-state body should be included in our accounting for **General Government Deficit and Debt** purposes.
9. If you have any bodies under your aegis which may meet the criteria, please contact the Post-Programme Central Unit at the contact details set out above, and we will provide further information and, if appropriate, refer the details to the CSO for consideration as to their classification.
10. 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 2018 (S.I No 118 of 2018), including those newly included, 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.
11. This Department maintains a register of all such encumbrances.
12. It would be appreciated if you could also confirm in your correspondence that this Circular has been brought to the attention of all the relevant bodies, funds and entities under your Department's aegis.
13. Please send all responses to the Post-Programme Central Unit, EU & International Division, Department of Finance (contact details set out above) by close of business on Tuesday, August 7th, 2018.
14. Please also nominate the contact person/section in your Department.



Nicholas O'Brien
Assistant Secretary General
EU & International Division
Department of Finance

Credit Institutions (Stabilisation) Act 2010

Prohibition of
certain secured
borrowings. 67.— (1)
This section
applies to—

(a) a local authority (within the meaning of the Local Government Act 2001), and

(b) any other person or body prescribed under *subsection (5)*.

(2) A person or body to which this section applies shall not mortgage, pledge or otherwise 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.

(3) The Minister shall not consent under *subsection (2)* unless he or she is satisfied that the relevant borrowing would not give rise to a breach of an obligation to the facility lenders.

(4) Where a security is granted in contravention of *subsection (2)* the facility lenders shall be taken to be entitled to share *pari passu* and *pro rata* in that security or encumbrance.

(5) The Minister may prescribe persons or bodies for the purposes of *subsection (1) (b)* by regulation.

(6) In making regulations under *subsection (5)*, the Minister shall have regard to the list of bodies included in General Government maintained by the Central Statistics Office.

(7) In this section “facility lender” means—

(a) the International Monetary Fund,

(b) the European Financial Stabilisation Mechanism,

(c) the European Financial Stability Facility, and

(d) the lender under any bilateral loan agreement with a Member State.



STATUTORY INSTRUMENTS.

S.I. No. 118 of 2018



GENERAL GOVERNMENT SECURED BORROWINGS ORDER 2018

S.I. No. 118 of 2018

GENERAL GOVERNMENT SECURED BORROWINGS ORDER 2018

I, PASCHAL DONOHOE, 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 order as follows:

1. (1) This Order may be cited as the General Government Secured Borrowings Order 2018.

(2) This Order shall come into operation on 23 April 2018.

2. The bodies listed in the Schedule are prescribed as bodies to which section 67 of the Credit Institutions (Stabilisation) Act 2010 (No. 36 of 2010) applies.

3. The following are revoked:

(a) the General Government Secured Borrowings Order 2011 (S.I. No. 40 of 2011); and

(b) the General Government Secured Borrowings Order 2014 (S.I. No. 120 of 2014).

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 20th April, 2018.

Schedule

(a) Central Government

(i) Departments of State

Department of Agriculture, Food and the Marine
 Department of Business, Enterprise and Innovation
 Department of Children and Youth Affairs
 Department of Communications, Climate Action and Environment
 Department of Culture, Heritage and the Gaeltacht
 Department of Defence
 Department of Education and Skills
 Department of Finance
 Department of Foreign Affairs and Trade
 Department of Health
 Department of Housing, Planning and Local Government
 Department of Justice and Equality
 Department of Public Expenditure and Reform
 Department of Employment Affairs and Social Protection
 Department of Rural and Community Development
 Department of the Taoiseach
 Department of Transport, Tourism and Sport

(ii) Additional Votes

Army Pensions
 Central Statistics Office
 Chief State Solicitor's Office (a component part of the Office of the Attorney General)
 Courts Service
 Garda Síochána
 Health Services Executive
 International Co-operation (Official Development Assistance, accounted for by the Office of the Minister for Foreign Affairs and Trade)
 Irish Prison Service
 National Shared Services Office
 Office of Government Procurement
 Office of Public Works
 Office of the Attorney General
 Office of the Comptroller and Auditor General
 Office of the Director of Public Prosecutions
 Office of the Revenue Commissioners
 Ombudsman (incl. the following): Office of the Ombudsman, Office of the Information Commissioner, Commissioner for Environmental Information, Standards in Public Office Commission, Commission for Public Service Appointments.
 Policing Authority
 President's Establishment
 Property Registration Authority
 Public Appointments Service
 Secret Service

State Laboratory
Superannuation and Retired Allowances
Tax Appeals Commission
Valuation Office

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

(i) General

Adoption Authority of Ireland (AAI)
Bord Pleanála
Aquaculture Licences Appeals Board (ALAB)
Army Pensions Board
Arts Council (Chomhairle Ealaíon)
Bord Bia
Bord Iascaigh Mhara
Broadcasting Authority of Ireland (BAI)
Charities Regulatory Authority
Chester Beatty Library
Child and Family Agency (Tusla)
Chomhairle um Oideachais Gaeltachta agus Gaelscolaíochta (Speisialta)
Citizens Information Board
Commission for Aviation Regulation
Commission for Communications Regulation (CCR Comreg)
Commission for Railway Regulation
Commission for Regulation of Utilities
Commission to Inquire into Child Abuse
Competition and Consumer Protection Commission (CCPC)
Crawford Gallery, Cork
Credit Union Restructuring Board (ReBo)
Criminal Injuries Compensation Tribunal
Defence Forces (Oglaigh na hÉireann)
Dental Council
Discovery Programme Ltd
Dublin Institute for Advanced Studies
Educational Research Centre (ERC)
Enterprise Ireland
Environmental Protection Agency (EPA)
Exchange Bureau (Léargas)
Fáilte Ireland
Financial Services and Pensions Ombudsman
Food Safety Authority of Ireland
Fee charging schools where the fee income of the school concerned covers less than 50% of its operating costs (pay, purchases of goods and services and depreciation)
Forensic Science Ireland
Gaisce (President's National Challenge Award)
Garda Síochána Ombudsman Commission (GSOC)
Garda Síochána Ombudsman Inspectorate
Grangegorman Development Agency
Health and Safety Authority

Health and Social Care Professionals Council (CORU)
 Health Information and Quality Authority (HIQA)
 Health Insurance Authority
 Health Research Board (Bord Taighde Sláinte) (HRB)
 Health Products Regulatory Authority (HPRA)
 Health Service National Partnership Forum
 Heritage Council (Comhairle Oidreachta)
 Higher Education Authority
 Horse Racing Ireland
 Horse Sport Ireland
 Housing and Sustainable Communities Agency
 Housing Finance Agency
 HRI Racecourses
 IDA Ireland
 Inland Fisheries Ireland
 Insolvency Service of Ireland
 International Protection Appeals Tribunal
 Irish Auditing and Accounting Supervisory Authority
 Irish Bank Resolution Corporation (IBRC)
 Irish Blood Transfusion Service (IBTS)
 Irish Film Board (Bord Scannán na hÉireann)
 Irish Film Classification Office
 Irish Financial Services Appeals Tribunal
 Irish Fiscal Advisory Council (IFAC)
 Irish Heritage Trust
 Irish Human Rights and Equality Commission
 Irish Museum of Modern Art (IMMA)
 Irish National Petroleum Corporation
 Irish Rail (Iarnród Éireann)
 Irish Research Council
 Irish Water
 Irish Water Safety
 Legal Aid Board
 Legal Services Regulatory Authority
 Local Government Management Agency (LGMA)
 Marine Casualty Investigation Board
 Marine Institute (Foras na Mara)
 Medical Bureau of Road Safety
 Medical Council
 Mental Health Commission
 Mental Health (Criminal Law) Review Board
 Moorepark Technology
 National Archives Advisory Council
 National Archives, Ireland
 National Asset Management Agency (NAMA)
 National Cancer Registry Board
 National Centre for Guidance in Education
 National Centre for Technology in Education
 National Council for Curriculum and Assessment

National Council for Special Education
National Disability Authority
National Economic and Social Council
National Economic and Social Development Office
National Gallery
National Library of Ireland (NLI)
National Milk Agency
National Museum of Ireland (NMI)
National Oil Reserve Agency (NORA)
National Property Services Regulatory Authority
National Standards Authority of Ireland
National Transport Authority
National Treasury Management Agency (NTMA)
National Treatment Purchase Fund Board
Nursing and Midwifery Board of Ireland
Oberstown Children Detention Campus
Office of the Data Protection Commissioner
Office of the National Lottery Regulator
Office of the Ombudsman for Children
Office of the Ombudsman for the Defence Forces
Office of the State Pathologist
Oifig Choimisinéir na dTeangacha Oifigúla
Ordnance Survey Ireland (OSI)
Parole Board
Pensions Authority
Pensions Council
Pharmaceutical Society of Ireland
Pobal
Pre-Hospital Emergency Care Council (PHECC)
Private Security Authority
Qualifications and Quality Assurance Authority of Ireland
Raidió Teilifís Éireann (RTÉ)
Residential Institutions Redress Board (RIRB)
Residential Institutions Statutory Fund Board (Caranua)
Residential Tenancies Board (RTB)
Road Safety Authority
Scéim Aoisliúntas Fhoireann (Udarás na Gaeltachta/Bhord na Gaeilge)
Schools (non-fee-charging): voluntary secondary, primary, community and comprehensive schools
Science Foundation Ireland
Sea Fisheries Protection Authority
Skillnets
SOLAS
Sport Ireland
State Examinations Commission (SEC)
Strategic Banking Corporation of Ireland (SBCI)
Sustainable Energy Authority of Ireland (SEAI)
Teaching Council
Teagasc

Teilifís na Gaeilge/TG4
Tourism Ireland
Transport Infrastructure Ireland
Údarás Na Gaeltachta
Voluntary Hospitals and hospices
Western Development Commission
Workplace Relations Commission (WRC)

(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
Bank Guarantee Scheme Fund
Capital Service Redemption Account (CSRA)
Carbon Fund
Ciste na Gaeilge
Credit Institutions (Eligible Institutions Guarantee) Scheme Account 2013
Credit Union Fund
Department Of Education Scholarship Fund
Deposit Guarantee Scheme
Dormant Accounts Fund
Environment Fund
Fishery Harbour Centres Fund
Fund for Cultural, Scientific Etc. Organisations
Fund for Organisations Promoting Ireland as an Educational Centre
Garda Síochána Reward Fund
Hepatitis C and HIV Compensation Tribunal Reparation Account 2013
Hepatitis C and HIV Compensation Tribunal Special Account 2013
Horse and Greyhound Racing Fund
Intestate Estates Fund Deposit Account
Ireland Strategic Investment Fund
Ireland-United States Educational Fund 2013
Land Bond Account
Local Authority Library and Archive Service
Local Authority Swimming Pool Programme
Local Government Fund
Local Loans Fund Account 2013
National Lottery Fund
National Lottery Suspense Account
National Pensions Reserve Fund
National Training Fund
Post Office Savings Bank Fund
Programme for Peace and Reconciliation
Rent and Interest Account No. 3
Residential Institutions Education Fund
Residential Institutions Redress Scheme
Residential Institutions Statutory Fund (Caranua)
Risk Equalisation Fund
Scientific and Technological Education (Investment) Fund
Small Savings Reserve Fund (SSRF)
Social Insurance Fund
Social Insurance Investment Fund

Special Account for Compensation of Hepatitis C
State Property (Misc. Deposits) Account
Sundry Monies Deposit Account
Travellers' Protection Fund
Voluntary Housing Scheme
Western Investment Fund



GIVEN under my Official Seal,
11 April 2018.

PASCHAL DONOHOE,
Minister for Finance.

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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