1986 No. 17

CONTROL OF BORROWING

Control of Borrowing (Amendment) Order (Northern Ireland) 1986

Made	*21st January 1986*
Coming into operation . . .	*25th February 1986*

The Department of Finance and Personnel(**a**), in exercise of the powers conferred upon it by section 2(1) and (2) of the Loans Guarantee and Borrowing Regulation Act (Northern Ireland) 1946(**b**), and of all other powers enabling it in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Control of Borrowing (Amendment) Order (Northern Ireland) 1986 and shall come into operation on 25th February 1986.

2. The Control of Borrowing Order (Northern Ireland) 1962(**c**) shall be amended by the substitution, for article 8A thereof, of the following article:

"**8A.**—(1) Subject to the provisions of this article, nothing in Part I of this Order applies to any transaction unless the transaction is effected by a district council or a joint committee appointed by two or more such councils for a purpose in which they are jointly interested.

(2) The exemption contained in the foregoing paragraph shall not apply to—

(*a*) the issue of any securities mentioned in paragraphs 1 to 5 of Part II of Schedule I to the Trustee Investments Act 1961(**d**), unless the terms on which the securities are to be issued have, before the making of the issue, been approved by the Department or by the Bank of England on behalf of the Department;

(*b*) the issue of any sterling securities (other than an issue of the kind described in sub-paragraph (*c*) of this paragraph) where the amount of money to be raised by the issue is not less than £3 million, unless either the issue is by or on behalf of an open ended investment trust company which is resident in the scheduled territories but outside the United Kingdom, or

(i) the maximum amount to be raised by the issue, and

(ii) the time at which or the period during which the issue is to be made,

have, before the making of the issue, been approved by the Department or by the Bank of England on behalf of the Department;

(*c*) the issue of any sterling securities as part of a transaction to which the prohibition in section 1(1) of the Banking Act 1979(**e**) does not apply by reason of regulation 15 of the Banking Act 1979 (Exempt Transactions) Regulations 1983(**f**), where either the amount of money to be raised by the issue, or the aggregate amount to be raised by or on behalf of the body corporate in any period of twelve consecutive months by the issue and any other such issue, is not less than £3 million, unless

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(**a**) Formerly Department of Finance. *See* S.I. 1982/338 (N.I. 6) Art. 3
(**b**) 1946 c. 18 (N.I.)
(**c**) S.R. & O. (N.I.) 1962 No. 187, as amended by S.R. 1978 Nos. 4 and 99
(**d**) 1961 c. 62
(**e**) 1979 c. 37
(**f**) S.I. 1983/1865; regulation 15 was inserted by S.I. 1985/564

(i) the maximum amount to be raised by the issue, and

(ii) the time at which or the period during which the issue is to be made,

have, before the making of the issue, been approved by the Department or by the Bank of England on behalf of the Department.

(3) In this article—

"open ended investment trust company" means a body corporate incorporated outside the United Kingdom and which is entitled to sell and repurchase investments in that body corporate and whose functions consist mainly in the holding of investments or other property;

"sterling securities" means securities in relation to which the principal, dividends, interest or subscription moneys (or any of them) are payable in sterling, or in relation to which there is an option (by whichever party exercisable) for any such payments to be made in sterling.

(4) For the purposes of this article a body corporate shall be deemed to be resident where the central management and control of its trade or business is exercised.".

3. The Control of Borrowing (Amendment) Order (Northern Ireland) 1978(**a**) is hereby revoked.

Sealed with the Official Seal of the Department of Finance and Personnel on 21st January 1986.

(L.S.) *A. B. MacKay*
Assistant Secretary

(**a**) S.R. 1978 No. 4

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order further amends article 8A of the Control of Borrowing Order (Northern Ireland) 1962, which confers a general exemption from the controls contained in Part I of that Order (on transactions other than those effected by district councils or joint committees appointed by two or more such councils for a purpose in which they are jointly interested). Article 8A(2)(*b*) provides that the exemption does not apply to the issue of sterling securities where the amount of money to be raised is £3 million or more, unless either the issue is on behalf of an open ended investment company which is resident in the scheduled territories but outside the United Kingdom or the time at which the issue is to be made has been approved by the Department of Finance and Personnel or by the Bank of England on behalf of the Department. The Order provides for the Department (or the Bank of England on behalf of the Department) to approve the period during which the issue is to be made, as an alternative to the time at which it is made, and provides that the approval of the Department (or of the Bank of England on behalf of the Department) should be sought for the maximum amount to be raised, as well as for the timing of the issue.

The Order also provides that, in addition to the restrictions in article 8A(2)(*b*) the exemption will not apply to an issue of sterling securities falling within regulation 15 of the Banking Act 1979 (Exempt Transactions) Regulations 1983 if the amount to be raised by the issue, or by that issue and any other such issue for the body corporate in a twelve month period, is £3 million or more, unless the Department (or the Bank of England on behalf of the Department) has approved the maximum amount of the issue and the time at which or period during which the issue is to be made.

Finally the Order consolidates the text of article 8A and revokes an earlier Order for this purpose.