EXPLANATORY MEMORANDUM TO THE

LOCAL LOANS (INCREASE OF LIMIT) ORDER 2008

2008 No.

1. This explanatory memorandum has been prepared by Her Majesty's Treasury ("HMT") and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 Loans advanced by the Public Works Loan Commissioners ("the Commissioners") are made from funds provided under section 4(1) of the National Loans Act 1968 ("the 1968 Act"). Amended by section 130 of the Finance Act 1990, this sets a limit of £55 billion on the total of loans outstanding to the Commissioners at any one time, but also contains a provision to alter the limit further to a sum not exceeding £70 billion. HMT, in consultation with the Commissioners, have determined that an increase in the limit of £55 billion is necessary in order to accommodate forecast future demand for loans.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Commissioners are statutory officers whose functions are to lend money from the National Loans Fund to local authorities and other prescribed bodies and to collect repayments. The Commissioners derive their statutory powers principally from the Public Works Loans Act 1875 and the 1968 Act.

4.2 Section 4(1) of the 1968 Act limits the aggregate amount outstanding by way of (i) undertakings entered into by the Commissioners to grant local loans and (ii) the principal in respect of any such loans. Section 4(1) also provides that HMT may specify, by order, a different aggregate limit. HMT are exercising the power in section 4(1), as amended by section 130 of the Finance Act 1990, to set a different limit.

4.3 It is not the first time, however, that HMT have specified by order an increase in the limit for local loans. HMT made orders under the original enabling power in section 4(2) of the 1968 Act[1] in order to increase the limit on the amount of new loans which could be made under section 4 of the 1968 Act. For that same purpose, HMT also made orders under powers provided by various Finance Acts between 1972 and 1984[2]. It was difficult to judge, however, how long each new tranche of funds authorised by each order would last and when a further order would be required in order to create a new tranche of available funds.

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[1] SI 1969/998, 1970/1144 and 1971/1930.

[2] SI 1973/1312, 1974/911 and 1974/1842 (made under section 132 of the Finance Act 1972); SI 1976/419, 1977/753 and 1977/2091 (made under section 55 of the Finance Act 1975); SI 1980/664 and 1981/749 (made under section 78 of the Finance Act 1978); SI 1983/958 and 1984/194 (made under section 154 of the Finance Act 1982).

4.4 Accordingly, section 125 of the Finance Act 1984 revised the Commissioners' power to make local loans and substituted HMT's order-making power in section 4 of the 1968 Act. Instead of limiting the amount of new lending by the Commissioners, section 4, as amended by the Finance Act 1984, placed a ceiling on outstanding loan debt. Using the new power in section 4(1) of the 1968 Act, therefore, as inserted by section 125 of the Finance Act 1984, the Treasury increased the limit on outstanding loan debts[3]. A further order was subsequently made under section 4(1) of the 1968 Act as amended by section 112 of the Finance Act 1986[4].

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister made the following statement regarding Human Rights:

In my view the provisions of the Local Loans (Increase of Limit) Order 2008 are compatible with the Convention rights.

7. Policy background

7.1 The Commissioners' main function is to make loans to local authorities for the purpose of capital spending and collecting the repayments. The Commissioners account for approximately 80% of local authority borrowing in the United Kingdom.

7.2 An increase in the limit is necessary in order to accommodate future applications for local authority loans.

8. Impact

8.1 A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of business.

9. Contact

Alex Darmoo at HM Treasury Tel: 0207 270 4618 or e-mail Alexander.darmoo@hm-treasury.x.gsi.gov.uk :can answer any queries regarding the instrument.

[3] SI 1986/129.
[4] SI 1988/635.