EXPLANATORY MEMORANDUM TO

THE LOCAL LOANS (INCREASE OF LIMIT) ORDER 2019

2019 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before House of Commons by Command of Her Majesty

2. Purpose of the instrument

2.1 Loans advanced by the Public Works Loan Commissioners ("the Commissioners") to local authorities are made from funds provided under section 4(1) of the National Loans Act 1968 ("the 1968 Act"). As amended by section 300 of the Finance Act 2014 ("the 2014 Act"), this sets a limit of £85 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 £95 billion. HMT, in consultation with the Commissioners, have determined that an increase in the limit to £95 billion is necessary in order to accommodate forecast future demand for loans.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is all of the United Kingdom

4.2 The territorial application of this instrument is all of the United Kingdom

5. European Convention on Human Rights

5.1 The Economic Secretary to the Treasury (John Glen) has made the following statement regarding Human Rights:

"In my view the provisions of the Local Loans (Increase of Limit) Order 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 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 principally derive their statutory powers from the Public Works Loans Act 1875 and the 1968 Act.

6.2 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.

6.3 Section 125 of the Finance Act 1984 ("the 1984 Act") revised the Commissioners' power to make local loans and substituted HMT's order-making power in section 4 of the 1968 Act.

6.4 Section 4, as amended by the 1984 Act, places a ceiling on outstanding loan debt.

6.5 Using the power in section 4(1) of the 1968 Act, HMT can increase the aggregate limit on outstanding loan debts up to this ceiling.

6.6 Section 4(1), was initially amended by section 130 of the Finance Act 1990, and subsequently by section 300 of the 2014 Act, to set different aggregate limits and ceilings for the outstanding loan debt.

6.7 The last Order to increase the aggregate limit was the Local Loans (Increase of Limit) Order 2008 ("the 2008 Order"), which raised the aggregate limit to £70,000 million.

6.8 Section 300 of the 2014 Act revoked the 2008 Order, increased the aggregate limit to £85 billion and increased the ceiling by which HMT can increase the aggregate limit to £95 billion.

6.9 The Finance Act 2014, Section 300 (Local Loans) (Appointed Day) Order 2017 brought section 300 of the 2014 Act into force.

6.10 This Order increases the aggregate limit to £95 billion.

7. Policy background

What is being done and why?

7.1 The Commissioners' main function is to make loans to local authorities for the purpose of capital spending and collecting the repayments on those loans.. The Commissioner are the main lender to local government in the United Kingdom, accounting for approximately 65% of local authority debt. Terms of these loans are designed to give local authorities a stable, affordable source of long-term capital finance.

7.2 Local Authorities are free to borrow from the Public Works Loan Board (PWLB) for any purpose relevant to their functions or for the prudent management of their financial affairs. There are restrictions:

- when borrowing, local authorities must have regard to the Prudential Code and statutory guidance;
- they may only borrow from the PWLB if the local authority's chief finance officer confirms that the repayments are affordable from revenue;
- and borrowing can only be used to finance capital, including the construction and maintenance of physical and social infrastructure such as schools and roads, rather than day-today-spending.

7.3 An increase in the limit from £85bn to £95bn is necessary in order to accommodate future applications from local authorities for loans from the Public Works Loan Board (PWLB), and so ensure that local authorities can deliver their medium-term financial plans. If this limit were not raised, the PWLB would not be able to issue new loans

that would take the total debt over £85bn, and local authorities would have to find alternative sources of finance, which would be disruptive and potentially costly.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union

9. Consolidation

9.1 This instrument stands alone and requires no further consolidation of other instruments.

10. Consultation outcome

10.1 Other than with the Commissioners no consultation was conducted in relation to this instrument because the change will not affect delivery of services or affect individual members of the public.

11. Guidance

11.1 No guidance has been produced for this instrument because it is the department's view that additional guidance on this Order is not required. The change will not affect the delivery of services.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is that it accommodates future applications from local authorities for loans from the PWLB.

12.3 An Impact Assessment has not been prepared for this instrument because it has no impact on the costs of business

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is through monitoring daily data received from the Debt Management Office regarding local authority loans and repayments to the PWLB.

14.2 The regulation does not include a statutory review clause.

15. Contact

15.1 Oscar Williamson at HMT, Telephone: 02072701878 or email Oscar.Williamson@hmtreasury.gov.uk can be contacted with any queries regarding the instrument.

15.2 Sophia Oliver, Deputy Director for Local Government & Reform at HMT, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Economic Secretary to the Treasury, John Glen MP, can confirm that this Explanatory Memorandum meets the required standard.