EXPLANATORY MEMORANDUM TO

THE LOCAL LOANS (INCREASE OF LIMIT) ORDER 2024

2024 No. 1201

1. Introduction

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

2. Declaration

2.1 Darren Jones, Chief Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.

2.2 Henry Elks, Deputy Director for Local Government and Reform, at HM Treasury, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Alexander Blunden at HM Treasury. Telephone: 07977 907 565 or email: alexander.blunden@hmtreasury.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Public Works Loan Commissioners and the Public Works Loan Board (PWLB) were abolished and their functions in relation to local loans were transferred to HM Treasury by The Public Bodies (Abolition of Public Works Loan Commissioners) Order 2020 (SI 2020/176).

4.2 HM Treasury may issue out of the National Loans Fund local loans; loans to any local authority for any purpose for which the authority has power to borrow. This statutory power is principally derived from the Public Works Loans Act 1875 and the National Loans Act 1968 ("the 1968 Act").

4.3 Lending under section 3 of the 1968 Act is still colloquially referred to as lending by PWLB.

4.4 Section 4(1) of the 1968 Act limits the aggregate amount outstanding by way of (i) undertakings entered into by HM Treasury to grant local loans and (ii) the principal in respect of any such loans.

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

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

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

4.8 Section 112 of the Finance Act 2020 ("the 2020 Act") amended section 4(1) of the National Loans Act 1968 to replace the amounts £85 billion and £95 billion, the aggregate limit and the maximum amount it can be raised to through statutory instrument, with the amounts £115 billion and £135 billion respectively.

4.9 The Finance Act 2020, Section 112 (Local Loans) (Appointed Day) Regulations 2022 brought section 112 of the 2020 Act into force.

4.10 This Order increases the aggregate limit to £135 billion.

Where does the legislation extend to, and apply?

4.11 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.12 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 HM Treasury, through its internal function, the PWLB, makes loans to local authorities for the purpose of capital spending and treasury management. The PWLB accounts for approximately 75% of local authority debt in the United Kingdom.

5.2 An increase in the aggregate limit, from £115bn to £135bn, is necessary in order to accommodate future applications for local loans from the PWLB for any purpose relevant to the borrowing authority's functions or for the prudent management of their financial affairs. When borrowing from the PWLB, local authorities must have regard to the PWLB lending guidance or other stated terms and conditions, as well as to the Prudential Code and relevant statutory guidance.

What was the previous policy, how is this different?

5.3 The policy of making local loans for the purpose of capital spending and treasury management remains unchanged. This order increases the aggregate limit to accommodate future loans.

6. Legislative and Legal Context

How has the law changed?

6.1 See paragraph 4 for legislative and legal context.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 No consultation was undertaken.

8. Applicable Guidance

8.1 HM Treasury issues lending guidance to local authorities looking to borrow from the PWLB. The guidance will not change as a result of this instrument. [1]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no impact on business because of this Order. This change only relates to lending to authorities eligible for local loans.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies. The legislation does not impact small or micro businesses.

9.3 There is no significant impact on the public sector. The impact of this instrument is to increase the aggregate lending limit of the PWLB lending facility. This will allow HM Treasury to ensure that local authorities have continued access to the PWLB, should the aggregate limit reach £115bn and should local authorities decide to source their financing from the PWLB rather than other alternative sources.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The changes set out in this instrument will increase the aggregate limit on local loans. The amount of local loans issued subject to this limit will remain subject to internal review by HM Treasury.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None

12. European Convention on Human Rights

12.1 Darren Jones, Chief Secretary of the Treasury has made the following statement regarding Human Rights:

"In our view the provisions of the Local Loans (Increase of Limit) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").

[1] https://www.dmo.gov.uk/media/qa2npqvv/pwlb-guidance-for-applicants-for-publishing-november.pdf