



# Local Government Act 2003

## 2003 CHAPTER 26

### PART 1

#### CAPITAL FINANCE ETC AND ACCOUNTS

#### CHAPTER 1

#### CAPITAL FINANCE ETC

#### *Borrowing*

### 1 Power to borrow

A local authority may borrow money—

- (a) for any purpose relevant to its functions under any enactment, or
- (b) for the purposes of the prudent management of its financial affairs.

#### Commencement Information

- I1** S. 1 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I2** S. 1 in force at 1.4.2004 for E. by [S.I. 2003/2938](#), [art. 7\(a\)](#) (with [art. 8](#), [Sch.](#))

### 2 Control of borrowing

- (1) A local authority may not borrow money if doing so would result in a breach of—
- (a) the limit for the time being determined by or for it under section 3, or
  - (b) any limit for the time being applicable to it under section 4 [<sup>F1</sup>, or]
  - [<sup>F2</sup>(c) any limit for the time being applicable to it under section 12A.]

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**Changes to legislation:** *Local Government Act 2003, Cross Heading: Borrowing is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (2) The Secretary of State may, in relation to specific borrowing by a particular local authority, by direction disapply subsection (1)(b), so far as relating to any limit for the time being applicable under section 4(1).
- (3) A local authority may not, without the consent of the Treasury, borrow otherwise than in sterling.
- (4) This section applies to borrowing under any power for the time being available to a local authority under any enactment, whenever passed.

#### Textual Amendments

- F1** Word in s. 2(1) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\), ss. 78\(3\)\(a\), 255\(2\)\(p\)](#) (with s. 247); [S.I. 2024/92, reg. 2\(a\)](#)
- F2** S. 2(1)(c) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\), ss. 78\(3\)\(b\), 255\(2\)\(p\)](#) (with s. 247); [S.I. 2024/92, reg. 2\(a\)](#)

#### Commencement Information

- I3** S. 2 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I4** S. 2 in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(a\)](#) (with [art. 8, Sch.](#))

### 3 Duty to determine affordable borrowing limit

- (1) A local authority shall determine and keep under review how much money it can afford to borrow.
- (2) In the case of the following authorities, namely—
  - (a) the Greater London Authority, and
  - (b) a functional body,
 the Mayor shall determine and keep under review how much money the authority can afford to borrow.
- (3) Before making any determination under subsection (2), the Mayor shall consult the London Assembly.
- (4) Before making a determination under subsection (2) for a functional body, the Mayor shall consult that body.
- (5) The Secretary of State may by regulations make provision about the performance of the duty under subsection (1) or (2).
- (6) Regulations under subsection (5) may, in particular—
  - (a) make provision about—
    - (i) when a determination under subsection (1) or (2) is to be made,
    - (ii) how such a determination is to be made, and
    - (iii) the period for which such a determination is to be made;
  - (b) make provision about the monitoring of an amount determined under subsection (1) or (2);
  - (c) make provision about factors to which regard may be had in making a determination under subsection (1) or (2) or in monitoring an amount determined under that subsection.

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- (7) Regulations under subsection (5) may include provision requiring a person making a determination under subsection (1) or (2) to have regard to one or more specified codes of practice, whether issued by the Secretary of State or another.
- (8) A local authority's function under subsection (1) shall be discharged only by the authority.
- (9) Section 38(1) of the Greater London Authority Act 1999 (c. 29) (delegation by Mayor) does not apply in relation to functions under subsection (2).
- (10) The power under subsection (7) is not to be read as limited to the specification of an existing document.
- (11) In this section—
  - “functional body” has the same meaning as in the Greater London Authority Act 1999 (c. 29);
  - “local authority” does not include the Greater London Authority or a functional body;
  - “Mayor” means Mayor of London.

#### Commencement Information

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| <b>I5</b> | S. 3 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by <a href="#">S.I. 2003/3034, art. 2, Sch. 1 Pt. I</a> (with <a href="#">Sch. 2 para. 3</a> ) |
| <b>I6</b> | S. 3(1)-(4) (8) (9) (11) in force at 1.1.2004 for E. by <a href="#">S.I. 2003/2938, art. 5</a> (with <a href="#">art. 8, Sch.</a> )  |
| <b>I7</b> | S. 3(5)-(7) (10) in force at 18.11.2003 for E. by <a href="#">S.I. 2003/2938, art. 3(a)</a> (with <a href="#">art. 8, Sch.</a> )   |

## 4 Imposition of borrowing limits

- (1) The Secretary of State may for national economic reasons by regulations set limits in relation to the borrowing of money by local authorities.
- (2) The Secretary of State may by direction set limits in relation to the borrowing of money by a particular local authority for the purpose of ensuring that the authority does not borrow more than it can afford.
- (3) Different limits may be set under subsection (1) or (2) in relation to different kinds of borrowing.
- (4) A local authority subject to a limit set under subsection (1) may transfer any headroom it has in relation to the limit to another local authority subject to a corresponding limit.
- (5) The Secretary of State may by regulations make provision about the exercise of the right under subsection (4) and may, in particular, make provision about—
  - (a) the circumstances in which a local authority is to be regarded as having headroom for the purposes of that subsection, and
  - (b) the amount of headroom which it has for those purposes.
- (6) Where an amount is transferred under subsection (4), this Chapter shall have effect—
  - (a) in relation to the transferor, as if the limit in relation to which the headroom exists were reduced by that amount, and
  - (b) in relation to the transferee, as if the corresponding limit to which it is subject were increased by that amount.

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#### Commencement Information

- I8** S. 4 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I9** S. 4(1)-(3) (5) in force at 18.11.2003 for E. by [S.I. 2003/2938, art. 3\(a\)](#) (with [art. 8, Sch.](#))
- I10** S. 4(4)(6) in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(b\)](#) (with [art. 8, Sch.](#))

## 5 Temporary borrowing

- (1) Subject to subsection (2), any limit for the time being determined by or for a local authority under section 3, or applicable to it under section 4 [<sup>F3</sup>or 12A], shall be treated for the purposes of this Chapter as increased by the amount of any payment which—
- is due to the authority in the period to which the limit relates, but
  - has not yet been received by it.
- (2) In the case of a limit determined under section 3, or set under section 4(2) [<sup>F4</sup>or 12A], subsection (1) shall not apply to any payment whose delayed receipt was taken into account in arriving at the limit.

#### Textual Amendments

- F3** Words in s. 5(1) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\), ss. 78\(4\)\(a\), 255\(2\)\(p\)](#) (with s. 247); [S.I. 2024/92, reg. 2\(a\)](#)
- F4** Words in s. 5(2) inserted (31.1.2024) by [Levelling-up and Regeneration Act 2023 \(c. 55\), ss. 78\(4\)\(b\), 255\(2\)\(p\)](#) (with s. 247); [S.I. 2024/92, reg. 2\(a\)](#)

#### Commencement Information

- I11** S. 5 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I12** S. 5 in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(a\)](#) (with [art. 8, Sch.](#))

## 6 Protection of lenders

A person lending money to a local authority shall not be bound to enquire whether the authority has power to borrow the money and shall not be prejudiced by the absence of any such power.

#### Commencement Information

- I13** S. 6 in force at 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 by [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#) (with [Sch. 2 para. 3](#))
- I14** S. 6 in force at 1.4.2004 for E. by [S.I. 2003/2938, art. 7\(a\)](#) (with [art. 8, Sch.](#))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(2A) inserted by [2007 c. 28 Sch. 14 para. 5\(2\)\(b\)](#)
- s. 24(1) s. 24 renumbered as s. 24(1) by [2007 c. 28 Sch. 14 para. 5\(3\)](#)
- s. 24(2) inserted by [2007 c. 28 Sch. 14 para. 5\(3\)](#)