



# Scotland Act 2012

## 2012 CHAPTER 11

### PART 3

#### FINANCE

#### *Borrowing*

### **32 Borrowing by the Scottish Ministers**

- (1) The 1998 Act is amended as follows.
- (2) Section 66 (borrowing by the Scottish Ministers etc) is amended as follows.
- (3) For subsection (1) substitute—
  - “(1) The Scottish Ministers may borrow from the Secretary of State—
    - (a) any sums required by them for the purpose of meeting a temporary excess of sums paid out of the Scottish Consolidated Fund over sums paid into that Fund,
    - (b) any sums required by them for the purpose of providing a working balance in the Scottish Consolidated Fund, and
    - (c) any sums which in accordance with rules determined by the Treasury are required by them to meet current expenditure because of a shortfall in receipts from devolved taxes, or from income tax charged by virtue of a Scottish rate resolution, against forecast receipts.
  - (1A) The Scottish Ministers may, with the approval of the Treasury, borrow by way of loan any sums required by them for the purpose of meeting capital expenditure.
  - (1B) A sum is required for the purpose of meeting capital expenditure if the expenditure would be capital expenditure for the purposes of accounts under section 70.”
- (4) In subsection (3) after “section” insert “from the Secretary of State”.

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*Status: This is the original version (as it was originally enacted).*

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(5) After subsection (4) insert—

“(5) The Secretary of State may by order made with the consent of the Treasury amend subsection (1A) so as to vary the means by which the Scottish Ministers may borrow money.”

(6) Section 67 (lending by the Secretary of State) is amended as follows.

(7) In subsection (2) for “that section” substitute “section 66(1)”.

(8) In subsection (3) omit “increased”.

(9) After subsection (3) insert—

“(3A) An amount substituted under subsection (3) may be more or less than the amount for which it is substituted but may not be less than £500 million.”

(10) After section 67 insert—

**“67A Lending for capital expenditure**

(1) The aggregate at any time outstanding in respect of the principal of sums borrowed under section 66(1A) shall not exceed £2.2 billion.

(2) The Secretary of State may by order made with the consent of the Treasury substitute for the amount (or substituted amount) specified in subsection (1) such amount as may be specified in the order.

(3) An amount substituted under subsection (2) may be more or less than the amount for which it is substituted but may not be less than £2.2 billion.

(4) A person lending money to a member of the Scottish Government is not bound to enquire whether the member of the Scottish Government has power to borrow the money and is not to be prejudiced by the absence of any such power.

(5) The Scottish Ministers may not mortgage or charge any of their property as security for money which they have borrowed under section 66(1A).

This is subject to section 66(2).

(6) Security given in breach of subsection (5) is unenforceable.”

(11) In section 114(1) (powers which may be exercised by modifying the 1998 Act), after “sections” insert “66(5),”.

(12) In Schedule 7 (procedure for subordinate legislation), in paragraph 1, at the appropriate places insert—

“Section 66(5) | Type E”; and

““Section 67A(2) | Type E”.