



2011 CHAPTER 10

PART 1

FINANCIAL ADMINISTRATION

Borrowing

Power to borrow

- 11.** A council may borrow money—
- (a) for any purpose relevant to its functions under any statutory provision; or
 - (b) for the purposes of the prudent management of its financial affairs.

Control of borrowing

12.—(1) A council may not borrow money if doing so would result in a breach of—

- (a) the limit determined by it under section 13, or
- (b) any limit applicable to it under section 14.

(2) The Department may, in relation to specific borrowing by a particular council, by direction disapply subsection (1)(b), so far as relating to any limit applicable under section 14(1).

(3) A council may not, without the consent of the Department of Finance and Personnel, borrow otherwise than in sterling.

(4) This section applies to borrowing under any power available to a council under any statutory provision.

Duty to determine affordable borrowing limit

13.—(1) A council shall determine and keep under review how much money it can afford to borrow.

(2) Regulations may make provision about the performance of the duty under subsection (1).

(3) Regulations under subsection (2) may, in particular—

(a) make provision about—

(i) when a determination under subsection (1) 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);

(c) make provision about factors to which regard may be had in making a determination under subsection (1) or in monitoring an amount determined under that subsection.

(4) Regulations under subsection (2) may include provision requiring a council making a determination under subsection (1) to have regard to one or more specified codes of practice, whether issued by the Department or otherwise.

(5) A council's function under subsection (1) shall be discharged only by the council.

(6) The power under subsection (4) is not to be read as limited to the specification of an existing document.

Imposition of borrowing limits

14.—(1) Regulations made with the consent of the Department of Finance and Personnel may for national economic reasons set limits in relation to the borrowing of money by councils.

(2) The Department may by direction set limits in relation to the borrowing of money by a particular council for the purpose of ensuring that the council does not borrow more than it can afford.

(3) A council subject to a limit set under subsection (1) may transfer any headroom it has in relation to the limit to another council subject to a corresponding limit.

(4) Regulations made with the consent of the Department of Finance and Personnel may make provision about the exercise of the right under subsection (3) and may, in particular, make provision about—

(a) the circumstances in which a council is to be regarded as having headroom for the purposes of subsection (3), and

(b) the amount of headroom which it has for those purposes.

(5) Where an amount is transferred under subsection (3), this Part 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.

Temporary borrowing

15.—(1) Subject to subsection (2), any limit for the time being determined by a council under section 13, or applicable to it under section 14, shall be treated for the purposes of this Part as increased by the amount of any payment which—

- (a) is due to the council in the period to which the limit relates, but
- (b) has not yet been received by it.

(2) In the case of a limit determined under section 13, or set under section 14(2), subsection (1) shall not apply to any payment whose delayed receipt was taken into account in arriving at the limit.

Protection of lenders

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