



Borrowing (Control and Guarantees) Act 1946

1946 CHAPTER 58

1 Treasury control of borrowing, etc.

- (1) The Treasury may make orders for regulating, subject to such exemptions as may be specified in the orders', all or any of the following transactions, that is to say—
- (a) the borrowing of money in Great Britain where the aggregate of the amount of money borrowed under the transaction and of any other amounts so borrowed by the same person in the previous twelve months (including any period before the passing of this Act) exceeds ten thousand pounds ;
 - (b) the raising of money in Great Britain by the issue, whether in Great Britain or elsewhere, by any body corporate, of any shares in that body corporate ;
 - (c) the issue for any purposes—
 - (i) by any body corporate of any shares in or debentures or other securities of that body corporate, if either the body corporate is incorporated under the law of England or Scotland or the shares, debentures or other securities are or are to be registered in England or Scotland ; or
 - (ii) by any Government, other than His Majesty's Government in the United Kingdom, of any securities of that Government which are or are to be registered in England or Scotland ;
 - (d) the circulation in Great Britain of any offer for subscription, sale or exchange of—
 - (i) any shares in or debentures or other securities of any body corporate not incorporated under the law of England or Scotland ; or
 - (ii) any securities of any Government other than His Majesty's Government in the United Kingdom :

Provided that paragraph (a) of this subsection shall not apply to the borrowing of money by any person (other than a local authority) in the ordinary course of his business from a person carrying on a banking undertaking.

- (2) The provisions of this section shall apply in relation to units under a unit trust scheme as they apply in relation to shares in a body corporate, but as if—
- (a) any reference to the issue of shares in a body corporate by that body corporate were a reference to an issue of units for the purposes of the scheme ; and
 - (b) any reference to shares in a body corporate incorporated, or not incorporated, under the law of England or Scotland were a reference to units issued under a scheme governed, or not governed, by the law of England or Scotland.
- (3) The provisions of the Schedule to this Act (which relate to enforcement and penalties) shall have effect in relation to orders made under this section but the rights of the persons concerned in any transaction shall not be affected by the fact that the transaction was in contravention of any such orders.

2 Power of the Treasury to guarantee loans.

- (1) The Treasury may, if satisfied that it is expedient in the public interest so to do for the purpose of facilitating the reconstruction or development of an industry or part of an industry in Great Britain, guarantee any loan :

Provided that the aggregate capital amount of the loans in respect of which guarantees are issued in any one financial year under this section (excluding any part of that amount which is guaranteed neither as to principal nor as to interest) shall not exceed fifty million pounds.

- (2) Any guarantee given under this section may be given in such form and manner and on such terms and subject to such conditions as the Treasury think fit.
- (3) Any moneys required for fulfilling a guarantee given under this section shall be charged on and issued out of the Consolidated Fund or the growing produce thereof, and any moneys paid in or towards repayment of any sum issued out of the Consolidated Fund under this section shall be paid into the Exchequer.
- (4) The Treasury shall lay before both Houses of Parliament—
- (a) a statement of any guarantee given under this section as soon as may be after it is given ; and
 - (b) within one month after the end of any financial year in which any guarantees given under this section are in force, an account of the total sums, if any, which during that year have been either issued out of the Consolidated Fund under this section or paid in or towards repayment of any money so issued.
- (5) In this section, references to the guaranteeing of a loan shall be construed as references to guaranteeing, whether wholly or in part and whether solely or jointly with other guarantors, the payment either of the interest, or of both the interest and the principal, of the loan, and the expression " guaranteed " shall be construed accordingly, and references to an industry shall be construed as including references to the undertakings for the times being engaged in the provision of any description of supplies or services.

3 Provisions as to orders.

- (1) Any order made under this Act shall be laid before Parliament as soon as may be after it is made, and if either House of Parliament within the period of forty days beginning with the day on which any such order is laid before it, resolves that the order

be annulled, the order shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of a new order.

- (2) In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.
- (3) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, an order made under this Act shall be deemed not to be, or to contain, a statutory rule to which that section applies.
- (4) An order made under this Act may be varied or revoked by a subsequent order.

4 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say :—
 - " issue " includes reissue ;
 - " local authority " means any authority being within the meaning of the Local Loans Act, 1875, or the Local Authorities Loans (Scotland) Act, 1891, an authority having power to levy a rate ;
 - " registered ", in relation to any security, includes inscribed, " registered in England or Scotland " means, in relation to securities, registered in a register in England or Scotland, and " a register ", in relation to securities, includes any book in which securities are registered ;
 - " security " includes shares, bonds, notes, debentures, debenture stock and units under a unit trust scheme ;
 - " share " includes stock and any perpetual debenture or perpetual debenture stock ;
 - " unit trust scheme " means any arrangements made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever ;
 - " unit " means, in relation to a unit trust scheme, any right or interest, (described whether as a unit or otherwise) which may be acquired under the scheme, being a right or interest created or issued for the purpose of raising money for the purposes of the scheme or a right or interest created or issued in substitution (whether directly or indirectly) for any right or interest so created or issued.
- (2) Any reference in this Act to the borrowing of money—
 - (a) includes a reference to the making of any arrangement by which a sum which would otherwise be payable at any date is payable at a later date, and includes in particular the making of any arrangement by which the whole or any part of the price of any property is allowed to remain unpaid either for a fixed period or indefinitely, but
 - (b) does not include a reference to the acceptance by a person carrying on a banking undertaking of moneys to be placed to the credit of a current or deposit account.
- (3) A person shall be deemed for the purposes of this Act to borrow or raise money in Great Britain if the money is made available in Great Britain, or, in any such case

as is mentioned in subsection. (2) of this section, if the money would, but for the arrangement in question, have been payable in Great Britain, and, without prejudice to the preceding provisions of this subsection, a person shall also be deemed for the purposes of this Act to borrow money in Great Britain if the money is borrowed on the security of property in Great Britain.

- (4) An arrangement to provide any guarantee, or to mortgage or charge any property, to secure the repayment of any sum borrowed before the arrangement is made, being a sum which is already due when the arrangement is made or which is payable not later than six months, or such longer or shorter period as may be prescribed by order of the Treasury, after the arrangement is made, shall be deemed for the purposes of the two last preceding subsections to be an arrangement by which that sum is payable at a date later than it would otherwise have been payable.
- (5) A sum which, at the time of, or by virtue of, the making of any arrangement, is payable on demand or on the expiration of a fixed period after demand shall be deemed for the purposes of the three last preceding subsections to be payable at the time of the making of the arrangement, or, as the case may be, on the expiration of the fixed period after the making of the arrangement, notwithstanding that no demand has been made.

5 Expenses.

Any expenses incurred by the Treasury in the administration of this Act shall be paid out of moneys provided by Parliament.

6 Northern Ireland.

- (1) The provisions of this Act, other than the provisions of this section, shall not extend to Northern Ireland.
- (2) It is hereby declared that the Parliament of Northern Ireland has power to make laws for purposes similar to the purposes of any of the provisions of this Act which do not extend to Northern Ireland.

7 Short title.

This Act may be cited as the Borrowing (Control and Guarantees) Act, 1946.