

LOANS GUARANTEE

Control of Borrowing

THE CONTROL OF BORROWING ORDER (NORTHERN IRELAND), 1947,
MADE BY THE MINISTRY OF FINANCE UNDER SECTION 2 OF THE
LOANS GUARANTEE AND BORROWING REGULATION ACT (NORTHERN
IRELAND), 1946 (10 Geo. 6. c. 18)

1947. No. 78

The Ministry of Finance (hereinafter referred to as "the Ministry") in the exercise of the powers conferred upon it by section two of the Loans Guarantee and Borrowing Regulation Act (Northern Ireland), 1946, hereby makes the following Order :—

PART I

GENERAL EXTENT OF CONTROL

Borrowing in Northern Ireland

1.—(1) Subject to the exemptions contained in Part II of this Order, a person shall not, without the consent of the Ministry, borrow money in Northern Ireland where the aggregate of the amount of money borrowed and of any other amounts borrowed in Northern Ireland by that person in the previous twelve months (including any period before the coming into force of this Order) exceeds ten thousand pounds.

(2) This Article shall not apply to—

(a) borrowing by any person, other than a local authority, if the borrowing is in the ordinary course of his business and is from a person carrying on a banking undertaking ;

(b) borrowing by any person, other than a local authority, where the money borrowed is repayable on demand or not more than six months after demand and the loan is wholly unsecured or is secured only by a bill of exchange payable on demand or at a fixed period not exceeding six months after the date of the borrowing or after sight or by a promissory note payable not more than six months after the date of the borrowing ;

(c) borrowing by a local authority for the sole purpose of defraying expenditure (including the payment of sums due by them to meet the expenses of other authorities) pending the receipt of revenues receivable by them in respect of the period of account in which that expenditure is chargeable, so long as—

(i) the expenditure is not capital expenditure ; and

(ii) the money is repayable not later than one month after the termination of that period of account ; and

(iii) the amount outstanding at any one time does not exceed one half of the total revenues received or receivable in respect of that period of account ;

- (d) acceptance by a person carrying on a banking undertaking of moneys to be placed to the credit of a current or deposit account, whether or not any security is given ;
- (e) borrowing by the personal representative of a deceased person in his capacity as such for the purpose of paying death duties payable by reason of the death of the deceased ;
- (f) borrowing from a department of His Majesty's Government in the United Kingdom, or a department of the Government of Northern Ireland.

For the purposes of this paragraph a loan in respect of which a guarantee is given is not an unsecured loan.

Postponement of repayment of principal moneys and of payment of price of certain property to be treated as borrowing

2.—(1) In this Order references to the borrowing of money include :—

- (a) references to the making of any arrangement by which any money borrowed or any money due under a security (other than money representing interest or dividends), which would otherwise be payable at any date, is payable at a later date, except where the money is payable by instalments and the arrangement is for the postponement of the payment of any instalment, other than the last instalment, to a date not later than that fixed for the payment of the last instalment ; and
- (b) references to the making of any arrangement by which the price of any property except—

- (i) the price of goods sold by a person in the ordinary course of his business ; and

- (ii) the price of any undertaking under a sale thereof to a private company,

is allowed to remain unpaid either for a fixed period or indefinitely but charged on the property ;

but do not include references to the making of any other arrangement by which a sum which would otherwise be payable at any date is payable at a later date ; and references to loans shall be construed accordingly.

(2) An arrangement to give any guarantee or to mortgage or charge any property to secure the payment of any sum which is already due when the arrangement is made or is payable not later than six months after the arrangement is made shall be deemed for the purposes of this Article to be an arrangement by which that sum is payable at a date later than it would otherwise be payable.

(3) 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 this Article 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.

Raising money by issue of shares

3.—(1) Subject to the exemptions contained in Part II of this Order, a body corporate shall not, without the consent of the Ministry, raise money in Northern Ireland by the issue, whether in Northern Ireland or elsewhere, of any shares in that body corporate.

(2) This Article shall not apply to money raised by the issue of shares to the subscribers of a memorandum of association where the total consideration for the issue of all those shares issued to the said subscribers does not exceed five hundred pounds.

(3) This Article shall not apply to money raised by the issue by a private company of shares to the vendors or the nominees of the vendors of any undertaking sold to the company if—

(a) the shares are all fully paid ; and

(b) the money raised is cash forming part of the assets of the undertaking or cash which has been paid to the vendors as or as part of the purchase price of the undertaking.

Issues of partly paid shares and other issues of securities

4.—(1) Subject to the exemptions contained in Part II of this Order, a body corporate shall not, without the consent of the Ministry, issue partly paid shares, if either the body corporate is incorporated under the law of Northern Ireland or the shares are or are to be registered in Northern Ireland.

(2) Subject to the exemptions contained in Part II of this Order, a body corporate incorporated under the law of Northern Ireland shall not, without the consent of the Ministry, issue any securities where the whole or any part of the consideration for the issue is the issue or transfer of securities of another body corporate, unless one or other of the bodies corporate in question is to be wound up.

(3) Subject to the exemptions contained in Part II of this Order, a body corporate incorporated under the law of Northern Ireland shall not, without the consent of the Ministry, issue any securities if the purposes or effects of the transaction consist of or include—

(a) the capitalisation of profits or reserves ; or

(b) the raising or borrowing of money outside Northern Ireland ;
or

(c) the exchanging or substituting of new securities for redeemable securities already issued.

(4) Subject to the exemptions contained in Part II of this Order, a body corporate not incorporated under the law of Northern Ireland shall not, without the consent of the Ministry, issue any securities which are or are to be registered in Northern Ireland if the purposes or effects of the transaction consist of or include—

- (a) the raising or borrowing of money outside Northern Ireland ;
or
- (b) the exchanging or substituting of new securities for redeemable securities already issued.

Government securities

5. Subject to the exemptions contained in Part II of this Order, no securities of any government other than His Majesty's Government in the United Kingdom or the Government of Northern Ireland which are or are to be registered in Northern Ireland shall be issued for any purpose without the consent of the Ministry.

Prospectuses, etc.

6. Subject to the exemptions contained in Part II of this Order, a person shall not, without the consent of the Ministry, circulate in Northern Ireland any offer for subscription, sale or exchange of—

- (a) any securities of any body corporate not incorporated under the law of Northern Ireland ; or
- (b) any securities of any government other than His Majesty's Government in the United Kingdom, or the Government of Northern Ireland ;

if the offer is a public offer or an offer to existing holders of securities of the body corporate or government in question or to existing holders of securities of any body corporate specified in the offer.

Unit trusts

7.—(1) Subject to the exemptions contained in Part II of this Order, a person shall not, without the consent of the Ministry—

- (a) raise money in Northern Ireland for the purposes of a unit trust scheme by the issue of any unit under the scheme ; or
- (b) issue any units under a unit trust scheme if the purposes or effects of the transaction consist of or include the raising of money outside Northern Ireland and either the scheme is governed by the law of Northern Ireland or the units are or are to be registered in Northern Ireland :

Provided that this paragraph shall not apply to the issue, or to the raising of money by the issue of any unit or sub-unit under a unit trust scheme if the issue does not cause the total number of issued units or sub-units to exceed the total number outstanding on the twelfth day of May, nineteen hundred and forty-one, including units or sub-units which at the said date the trustees could be required by the managers of the trust to issue.

(2) Article 6 of this Order shall apply in relation to units under a unit trust scheme not governed by the law of Northern Ireland as it applies in relation to securities of a body corporate not incorporated under the law of Northern Ireland.

PART II

GENERAL EXEMPTIONS

Exemptions where annual limit not exceeded

8.—(1) Subject to the provisions of this Article, the consent of the Ministry shall not be required to the carrying out by any such person as is mentioned in any of the provisions of Part I of this Order of any transaction mentioned in that provision if the amount involved in the transaction together with the amount involved in all previous transactions by the same person in the previous twelve months, being transactions, which are to be taken into account in accordance with paragraph (2) of this Article, does not exceed fifty thousand pounds.

(2) The previous transactions to be taken into account for the purposes of this Article are—

(a) any borrowing of money in Northern Ireland except such borrowing as is mentioned in paragraph (2) of Article 1 of this Order, whether or not the consent of the Ministry under this Order was required thereto ; and

(b) any other transaction to which the consent of the Ministry under this Order was required or would, apart from the provisions of this Part of this Order, have been required,

and include transactions effected before the coming into force of this Order to which the preceding provisions of this paragraph would have applied if this Order had then been in force :

Provided that—

- (i) where the effect of any of the said previous transactions consisting of the borrowing or raising of money was that a capital liability (other than a capital liability in respect of any such borrowing as is mentioned in paragraph (2) of Article 1 of this Order) discharged contemporaneously with, or not more than three months before, that transaction was replaced by another capital liability, the amount involved in that transaction shall be treated as reduced by the amount so discharged ;
- (ii) where any of the said previous transactions consisted of an arrangement for postponing the repayment of money borrowed or raised, not being an arrangement to which paragraph (2) of Article 2 of this Order applies, the amount involved in that transaction shall be left out of account ;
- (iii) where any of the said previous transactions consisted solely of the borrowing of money which, subsequent to that borrowing, was repaid in whole or in part, the amount involved in that transaction shall be treated as reduced by the amount repaid unless the repayment formed part of any other of the said previous transactions and the

whole or part of the amount involved in that other transaction has been left out of account by virtue of paragraph (i) of this proviso.

(3) The exemption conferred by this Article shall not apply to any issue of securities, if the purposes or effects of the transaction consist of or include the capitalisation of profits or reserves.

(4) The Ministry may at any time direct that the exemption conferred by this Article shall not apply to any person specified in the direction.

Any direction given under this paragraph may be revoked by a subsequent direction of the Ministry and any direction given by His Majesty's Treasury under proviso (b) of sub-paragraph (1) of paragraph 1 of the Capital Issues Exemptions Order, 1941 (as amended by the Capital Issues Exemptions Order, 1944) shall, in so far as it relates to any transaction to which this Article refers, have effect as if it had been given under this paragraph.

(5) In this Article, the expression "the amount involved" means—

- (a) in relation to the borrowing or raising of money, the amount of money to be borrowed or raised ;
- (b) in relation to the issue of securities or the raising of money by such an issue, the amount of the money to be raised or the total nominal value of the securities, or the value of any assets to be acquired in return for the securities, whichever is the greatest ;
- (c) In relation to the circulation of an offer of securities
 - (i) in the case of an offer to existing holders of securities registered in Northern Ireland, the total price, under the offer, of the securities offered to such holders ;
 - (ii) in any other case, the total price, under the offer, of all the securities offered ;
- (d) in relation to an arrangement for the postponement of payment of any money, the amount the payment of which is to be postponed.

The references in sub-paragraph (c) of this paragraph to the price of securities include in the case of an offer of securities for exchange, references to the total value of the securities so offered.

(6) Paragraph (5) of this Article shall apply in relation to units under a unit trust scheme as it applies in relation to securities of a body corporate.

Building Societies and Industrial and Provident Societies

9. Nothing in Part I of this Order applies to any borrowing or raising of money by, or any issue of securities of—

- (a) a society incorporated under the Building Societies Acts (Northern Ireland), 1874 to 1940, or such an unincorporated

- society as is mentioned in section seven of the Building Societies Act, 1874, as that Act applies in Northern Ireland; or
- (b) a society registered under the Industrial and Provident Societies Act, 1893, whose business does not consist wholly or mainly in investing in land or securities.

Profit Sharing Schemes

10. Nothing in Part I of this Order applies to any issue of shares made in pursuance of a profit sharing scheme whereby a share in the net profits from time to time made by a body corporate falls to be distributed on a pre-determined basis among all the employees of that body corporate who are entitled to participate in the scheme (not being less than three-quarters of the total number of employees of that body corporate) in the form, either wholly or in part; of fully paid shares and such distribution is made in addition to the payment to such employees of wages at rates standard in the industry of which that body corporate forms part.

Exemption for transactions sanctioned by His Majesty's Treasury

11. Where the consent of His Majesty's Treasury under any Order made in pursuance of the Borrowing (Control and Guarantees) Act, 1946, has been given to the carrying out of any transaction to which that Order applies, and to the carrying out of which, but for this Article, the consent of the Ministry would be required under this Order, then, so long as that consent remains in force and provided that any conditions attached to the consent are complied with, the consent of the Ministry under this Order shall not be required to the carrying out of that transaction.

PART III

SUPPLEMENTAL

Provisions as to consent of the Ministry

- 12.—(1) Any consent granted by the Ministry under this Order—
- (a) may be either general or special;
 - (b) may be absolute or conditional;
 - (c) may be limited so as to expire on a specified date unless renewed; and
 - (d) may be revoked by the Ministry.

(2) Any consent granted by His Majesty's Treasury under Regulation six of the Defence (Finance) Regulations, 1939, in respect of any issue of capital or other transaction in Northern Ireland, shall have effect as if it had been granted under the corresponding provision of this Order.

Definitions

- 13.—(1) In this Order, unless the context otherwise requires,—

“issue” includes re-issue;

“local authority” has the meaning assigned to it by Section twelve of the Government Loans Act (Northern Ireland), 1945;

“ registered ” in relation to any security or unit includes inscribed ;
 “ registered in Northern Ireland ” means in relation to securities or units, registered in a register in Northern Ireland and
 “ register ” in relation to securities of units, includes any book in which securities or units are registered ;

“ security ” includes shares, bonds, notes, debentures and debenture stock ;

“ 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, any right or interest (described whether as a unit or as a sub-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) A person shall be deemed for the purposes of this Order to borrow or raise money in Northern Ireland if the money is made available in Northern Ireland or, in any such case as is mentioned in Article 2 of this Order, if the money would, but for the arrangement in question, have been payable in Northern Ireland, and, without prejudice to the preceding provisions of this paragraph, a person shall also be deemed for the purposes of this Order to borrow money in Northern Ireland if the money is borrowed on the security of property in Northern Ireland.

Application of Interpretation Act

14. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of the Parliament of Northern Ireland.

Saving

15. The restrictions imposed by this Order shall, as respects local authorities, be in addition to and not in derogation of any restrictions imposed by or under the Government Loans Act (Northern Ireland), 1945.

Extent

16. This Order applies to the borrowing or raising of money in Northern Ireland in pursuance of authority conferred by an Order made under an Act of the Parliament of the United Kingdom or of Northern Ireland passed before the 29th day of August, 1946, being the date of the passing of the Loans Guarantee and Borrowing Regulation Act (Northern Ireland), 1946.

Short title and commencement

17. This Order may be cited as the Control of Borrowing Order (Northern Ireland), 1947, and shall come into force on the 16th day of June, 1947.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 21st day of May, 1947, in the presence of

(L.S.)

W. D. Scott,
Secretary.

THE MALONE TRAINING SCHOOL

REGULATIONS, DATED THE 18TH DAY OF JANUARY, 1947, MADE BY THE MINISTRY OF HOME AFFAIRS, WITH THE APPROVAL OF THE MINISTRY OF FINANCE, IN PURSUANCE OF THE PROVISIONS OF SUB-SECTION (3) OF SECTION THREE OF THE MALONE TRAINING SCHOOL ACT (NORTHERN IRELAND), 1926.

1947. No. 14

The Ministry of Home Affairs, in exercise of the powers vested in it by sub-section (3) of Section Three of the Malone Training School Act (Northern Ireland), 1926, with the approval of the Ministry of Finance, hereby makes the following Regulations :—

1. The Contribution payable by the Council of a county or county borough under the said sub-section :—

- (a) in respect of a youthful offender detained in the Reformatory School referred to in that sub-section during any period or periods occurring after the thirty-first day of March, nineteen hundred and forty-five, and before the first day of April, nineteen hundred and forty-six, shall be at the rate of eighteen shillings and ninepence (18/9) for each week during which he is so detained ; and
- (b) in respect of any such period or periods occurring after the thirty-first day of March, nineteen hundred and forty-six, and before the first day of April, nineteen hundred and forty-seven, shall be at the rate of twenty-two shillings and eightpence (22/8) for each week during which he is so detained.

2. Payment of the contribution as aforesaid shall be in arrear, and shall be made not later than two months from the date of the claim for payment.

3. The Regulations made by the Ministry of Home Affairs dated the 18th day of October, 1944, and approved by the Ministry of Finance on the 26th day of October, 1944, are hereby revoked.