

# BRITISH LIBRARY BOARD (POWER TO BORROW) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the British Library Board (Power to Borrow) Bill as brought from the House of Commons on 12 March 2021 (HL Bill 177).

- These Explanatory Notes have been provided by the Department for Digital, Culture, Media and Sport in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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## Overview of the Bill

- 1 The Bill removes the restriction in the British Library Act (1972) which prevents the British Library Board from borrowing money on behalf of the British Library.

## Policy background

- 2 Paragraph 11(1) of the Schedule to the British Library Act 1972 restricts the British Library from being able to borrow money:

“It shall be within the capacity of the Board as a statutory corporation to do all such things, and enter into all such transactions, as are incidental or conducive to the discharge of its functions; but the board shall not have power to borrow money.”
- 3 Other national museums sponsored by the Department for Digital, Culture, Media and Sport (DCMS) have freedom to borrow following operational and financial reforms announced in 2013 Spending Review, made permanent and extended in 2015. These freedoms allow them to borrow money, including from a central Government loan pot of £60m per annum, but the British Library Act 1972 prevents the British Library from doing this.
- 4 The [Strategic Review of DCMS-Sponsored Museums](#) for the Government (November 2017) recommended that:

“Subject to Parliamentary time DCMS and the British Library explore scope for legislation that enables the British Library to borrow money.”
- 5 Removing the restriction brings the British Library into line with other national museums that already have this freedom and give the British Library the potential to access financial opportunities to support its work.

## Museum Freedoms

- 6 In 2013, the Chancellor of the Exchequer announced a four-year pilot package of operational freedoms for national museums and galleries. This was designed to help museums act more strategically, increase revenue from commercial enterprises and to attract more philanthropic donations. In 2015, these freedoms were made permanent.
- 7 The museum freedoms are:
  - Permission to spend previously generated reserves
  - Removal of 1% limit on pay awards for all positions
  - Flexibility to opt in or out of central procurement on a case by case basis
  - Power to borrow through voted loans from their sponsoring department subject to a sector cap of £60m per year
  - Authorisation to invest non-grant income
  - HM Treasury commitment to respond to capital business cases within 28 days, and training to ensure business cases are proportionate and cost-effective
  - Cabinet Office commitment to respond to redundancy and restructuring applications within two business days
  - HM Treasury commitment to reduce the administrative burden from severance payment business cases and to achieve quicker decisions

- HM Treasury and sponsoring departments undertaking to consider favourably requests for departmental expenditure limit cover to meet exceptional depreciation charges
  - Exemption from the requirement to use the Government Banking Service
  - Exemption from central marketing and advertising controls
  - Opt out of the Principal Civil Service Pension Scheme.
- 8 The museum freedoms have been granted to all DCMS-sponsored museums, as well as certain other public cultural institutions, only the British Library is barred from borrowing as described above.
- 9 The freedoms pilot and subsequent permanent package included the national museums in Scotland and Wales. The museums of Northern Ireland were invited to be included but decided not to join.

## Legal background

- 10 The British Library is an executive Non-Departmental Public Body sponsored by DCMS and is an exempt charity under the Charities Act 1993.
- 11 The British Library is governed by the British Library Act 1972. Section 1(1) of the Act established the British Library as the National Library of the United Kingdom. Section 1(2) of the Act places it under the control and management of the British Library Board, members of whom are appointed by the Secretary of State and Her Majesty.
- 12 The British Library receives Grant in Aid and is subject to a Management Agreement with DCMS.
- 13 To remove the restriction in the British Library Act 1972 that prevents the British Library from borrowing money, paragraph 11(1) of the Schedule to the British Library Act 1972 (entitled ‘incidental powers’), has been amended to remove the words “; but the Board shall not have power to borrow money”.

## Territorial extent and application

- 14 The Bill extends and applies to England and Wales, Scotland and Northern Ireland.
- 15 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

## Commentary on provisions of Bill

- 16 The Bill has two clauses. Clause 1 amends paragraph 11(1) of the Schedule of the British Library Act 1972 to remove the restriction on the British Library Board to borrow money. This is intended to enable the British Library to benefit from the same freedom to borrow money as other DCMS-sponsored museums.
- 17 Clause 2 describes the extent of the Bill, commencement and short title. The Bill extends to England and Wales, Scotland and Northern Ireland.

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## Commencement

- 18 The Bill will come into force two months after receiving Royal Assent.

## Financial implications of the Bill

- 19 This change will give the British Library the same freedom to borrow money that other DCMS-sponsored bodies have. The British Library would have to ensure that any costs of borrowing would be met through its existing allocations. Any application for a loan from the central government loan pot would be subject to usual business case approval by the DCMS Investment Sub-Committee or full Finance Committee.
- 20 The Bill does not entail any additional public expenditure. The British Library will have to demonstrate that any financial borrowing is affordable for them and the financial borrowing will need to be approved by DCMS and HM Treasury.
- 21 Removing the restriction will allow the British Library to borrow money, however, this does not mean that the British Library will use this power straight away, or at all. It will be for the British Library to determine whether, how and when to use this freedom as a means to support their work.

## Parliamentary approval for financial costs or for charges imposed

- 22 The Bill does not require either a money resolution or a ways and means resolution.

## Compatibility with the European Convention on Human Rights

- 23 DCMS has examined the compatibility of the provisions in the Bill with the Convention and believes the Bill's provisions are compatible with the Convention rights.

## Annex A – Territorial extent and application in the United Kingdom

24 The provision in this Bill is not affected by the EVEL process and does not currently require consideration for certification. The functions and responsibilities of the British Library as set out in the British Library Act 1972 extend UK wide and therefore the amendment of the Act in order to remove the restriction on borrowing also extends and applies to UK wide.<sup>1</sup>

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of Senedd Cymru?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clause 1	Yes	Yes	Yes	Yes	No	No	No	No
Clause 2	Yes	Yes	Yes	Yes	No	No	No	No

### Minor or consequential effects<sup>2</sup>

25 None

### Subject matter and legislative competence of devolved legislatures

26 The measures in this Bill do not relate to devolved matters. Corresponding provisions are not within the competence of each of the devolved legislatures. Legislative Consent Motions are therefore not needed.

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<sup>1</sup> References in this Annex to a provision being within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

<sup>2</sup> References in this Annex to an effect of a provision being minor or consequential are to its being minor or consequential for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

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