

BUDGET (SCOTLAND) (NO.3) BILL

DELEGATED POWERS MEMORANDUM

Purpose

1. This memorandum has been prepared by the Scottish Government in accordance with Rule 9.4A of the Parliament's Standing Orders, in relation to the Budget (Scotland) (No.3) Bill. It describes the purpose of the subordinate legislation provision in the Bill and outlines the reasons for seeking the proposed power.

2. The contents of this Memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by the Scottish Parliament.

Outline of Bill provisions

3. The Budget Bill is the vehicle through which the Scottish Government seeks Parliamentary approval of its spending plans for the coming financial year (in this case, 2014-2015), since all spending – both in terms of overall amounts and the purpose for which resources are to be used – must be subject to prior Parliamentary authorisation.

Reasons for subordinate legislation

4. The Bill contains one subordinate legislation power. This is contained in section 7.

Delegated power

Section 7 – Amendment of this Act

Power conferred on: the Scottish Ministers
Power exercisable by: order made by Scottish statutory instrument
Parliamentary procedure: affirmative procedure

5. It is inevitable that the Government's spending plans will be subject to change during the financial year to which the Bill applies. Such changes might be, for example, to reflect—

- (a) transfers of resources within the Scottish Government, and with Whitehall;
- (b) changes in accounting and classification guidelines; or

- (c) the allocation of resources from central funds including the Contingency Fund and from End Year Flexibility allocations.

6. There is therefore a need for a mechanism to allow Scottish Ministers to seek authorisation for such changes. The use of affirmative statutory instruments for this purpose was originally introduced to implement the pre-devolution Financial Issues Advisory Group's (FIAG's) recommendations for the process (paragraph 3.40 of their Final Report), and is also covered in the Agreement on the Budget Process between the Parliament and the Scottish Government.

7. Since devolution, the Budget Revision process through the use of secondary legislation has become a regular part of the annual Budget process. All of the annual Budget Acts have been subject to at least one revision by secondary legislation – colloquially known as the Summer, Autumn or Spring Budget Revisions. The Budget Act and subsequent revisions roughly mirror the UK Parliament's process (since Scotland's drawdown from the UK consolidated fund must also be approved by the UK Parliament) through Main and Supplementary Estimates.

*This document relates to the Budget (Scotland) (No.3) Bill (SP Bill 45) as introduced in the
Scottish Parliament on 16 January 2014*

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