

NORTHERN IRELAND BUDGET ACT 2017

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Northern Ireland Budget Act 2017 (c. 34) which received Royal Assent on 16 November 2017.

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

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Overview of the Act

- 1 The Act deals with matters arising from the lack of a 2017-18 Budget Act passed by the Northern Ireland Assembly, as a result of the continued absence of a Northern Ireland Executive following the Assembly election on 2 March 2017.
- 2 It authorises Northern Ireland departments and certain other bodies to incur expenditure and use resources for the financial year ending on 31 March 2018, as detailed in the corresponding Estimates volume and summarised in the Schedules to the Act.

Policy background

- 3 Ordinarily the passage of a Budget Act to authorise the issue of sums from the Consolidated Fund of Northern Ireland is a devolved matter, taken through the Northern Ireland Assembly following the agreement of a budget by the Northern Ireland Executive.
- 4 While the budget-setting process for the year ending 31 March 2018 was begun by the previous Executive, this process was not completed prior to the resignation of the then deputy First Minister and the Assembly election of 2 March. Since then, there has been no functioning Executive able to agree a budget. From 31 March 2017, therefore, public services in Northern Ireland have been funded using authorisations by the Permanent Secretary of the Northern Ireland Department of Finance under section 59 of the Northern Ireland Act 1998 and section 7 of the Government Resources and Accounts Act (Northern Ireland) 2001.
- 5 The point at which the authorisations available under these powers will be exhausted is approaching. Section 59 of the Northern Ireland Act 1998 and section 7 of the Government Resources and Accounts Act (Northern Ireland) 2001 do not enable the use of accruing resources (the income received by a department which it is authorised to retain instead of transferring to the Consolidated Fund), which means that the resources available to departments are in reality significantly less than 95 percent of the previous year's provision. In combination with the broader requirement to provide funding for public services, the legal limit of spending is now approaching.
- 6 This Act provides authority for departments and other public bodies in Northern Ireland to deliver public services for the remainder of the year ending 31 March 2018. This supersedes the authorisations provided up to this point under the powers described above.
- 7 This step has been delayed in order to provide space to enable an Executive to be formed and power-sharing government to return to Northern Ireland. It leaves in place the requirement for devolved spending decisions to be made by the Northern Ireland Executive or, in the absence of Ministers, the Northern Ireland Civil Service. In addition the allocations set out in the Act are on the advice from the Head of the Northern Ireland Civil Service and the Northern Ireland Civil Service Board.
- 8 No new money is voted as a result of the Act. Instead it appropriates sums already in the Consolidated Fund of Northern Ireland, consisting of monies already appropriated by Parliament through the Supply and Appropriation (Main Estimates) Act 2017, together with revenue generated locally within Northern Ireland under the Assembly's devolved powers. It therefore functions as though it were a Budget Act passed by the Assembly.

Legal background

- 9 In a situation where no Budget Act has been passed by the Northern Ireland Assembly, section 59 of the Northern Ireland Act 1998 provides for the authorised officer of the Northern Ireland Department of Finance to authorise the issue of sums out of the Consolidated Fund of Northern Ireland for that year, up to a maximum of 95 per cent of the total amount appropriated by Act for the preceding year.
- 10 Similarly, section 7 of the Government Resources and Accounts Act (Northern Ireland) 2001 provides for the authorised officer of the Northern Ireland Department of Finance to authorise the use of resources for that year up to a maximum of 95 per cent of the total amount appropriated by Act for the preceding year. In both Acts, the “authorised officer” is the Permanent Secretary, or another officer nominated by the Permanent Secretary.
- 11 As no Budget Act has been passed by the Northern Ireland Assembly for the year ending 31 March 2018, the Permanent Secretary of the Northern Ireland Department of Finance has exercised his powers under these two Acts to authorise the issue of sums to, and the use of resources by, Northern Ireland departments and certain other bodies to allow public services to continue to be delivered in the short term.
- 12 In the continuing absence of a Northern Ireland Executive, and the consequent inability of the Northern Ireland Assembly to pass a Budget Act, this Act provides the required authorisations and appropriations. It would be deemed for those purposes to be an Act of the Assembly. To that end, instead of the usual Assembly process, an Estimates document was laid alongside the Bill and this is deemed to be equivalent to the Assembly supply process.
- 13 The Act provides authorisations and appropriations for departments and other public bodies in Northern Ireland and leaves spending decisions, within the overall totals voted (and the more detailed totals in the Estimates document), to these departments.

Territorial extent and application

- 14 The Act extends across the United Kingdom but applies only to Northern Ireland.

Commentary on provisions of Act

Section 1 – Issue of sum out of the Consolidated Fund for year ending 31 March 2018 and appropriation of that sum

- 15 Section 1 authorises the issue out of the Consolidated Fund of Northern Ireland the sum of £16,166,048,000 for the purposes set out in Schedule 1. This authorisation supersedes those amounts previously authorised by the Permanent Secretary of the Northern Ireland Department of Finance under section 59 of the Northern Ireland Act 1998. This is not new money, as it is an authorisation for issue from the Consolidated Fund of Northern Ireland as would normally be done by the Assembly. The sums referred to are those already appropriated by Parliament through the Supply and Appropriation (Main Estimates) Act 2017, together with revenue generated locally within Northern Ireland under the Assembly's devolved powers.

Section 2 – Power of the Department of Finance to borrow

- 16 Section 2 authorises the temporary borrowing by the Northern Ireland Department of Finance of approximately half the sum covered by Section 1. This is a normal safeguard against the possibility of a temporary deficiency arising in the Consolidated Fund of Northern Ireland and any such borrowing is to be repaid by 31 March 2018.

Section 3 – Use of resources (other than accruing resources) in the year ending 31 March 2018

- 17 Section 3 authorises the use of resources amounting to £18,007,637,000 in the year ending 31 March 2018 by the bodies listed in section 3(2) for the purposes specified in column 1 of Schedule 2; the amount authorised is set out in column 2 of that Schedule. This authorisation supersedes those amounts previously authorised by the Permanent Secretary of the Northern Ireland Department of Finance under Section 7 of the Government Resources and Accounts Act (Northern Ireland) 2001. As with section 1 above this is an authorisation to use resources which would normally be provided by the Northern Ireland Assembly in relation to money already authorised by Parliament through the Supply and Appropriation (Main Estimates) Act 2017, together with revenue generated locally within Northern Ireland under the Assembly's devolved powers.
- 18 There is a distinction between the cash sum authorised for issue in section 1, and the amount of resources authorised for use in section 3. The cash sum in section 1 includes cash used to finance capital investment, and also takes into account movement in working capital and payments based on provisions created in previous years. These do not constitute resource consumption. The resources authorised in section 3 exclude those items, but include non-cash items, mainly the depreciation of assets and creation of new provisions.

Section 4 – Limits on use of certain accruing resources in the year ending 31 March 2018

- 19 Section 4 sets limits on the accruing resources, including both operating and non-operating accruing resources, which may be used for the purposes specified in column 1 of Schedule 2 in the year ending 31 March 2018. These limits are set out in column 3 of that Schedule.

Section 5 – Act to take effect as if it were a Budget Act of the Assembly etc

- 20 Section 5 provides for this Act to have the same effect as if it were an Act of the Northern Ireland Assembly for the year ending 31 March 2018. This includes references in other legislation to the Northern Ireland Estimates which would normally form part of the Assembly's supply process, including the consideration of the estimates by the Assembly's committees and the approval of the estimates document by a vote in the Assembly. For those purposes an Estimates document laid before Parliament, which accompanied the introduction of the Bill, is deemed equivalent to those Assembly processes. Section 5(3) would require the Northern Ireland Audit Office and the Northern Ireland Public Service Ombudsman to prepare their accounts in accordance with the Estimates laid before Parliament.

Section 6 – Repeal of spent provisions

- 21 Section 6 removes from the statute book two Budget Acts of the Northern Ireland Assembly, relating to 2013-2014 and 2014-2015, which are no longer operative.

Schedule 1 – Sums granted for the year ending 31 March 2018

- 22 This Schedule sets out the purpose and sums of money granted to Northern Ireland departments and other bodies under this Act (under section 1).

Schedule 2 – Amounts of resources authorised for use and amounts of accruing resources which may be used in year ending 31 March 2018

- 23 This Schedule sets out the amount of resources authorised for use by Departments and other bodies (see section 3), and the limits to use of accruing resources (section 4).

Commencement

- 24 The Act came into force on the day on which it was passed.

Annex A - Territorial extent and application in the United Kingdom

25 The Act extends across the United Kingdom but applies only to Northern Ireland.

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?
Section 1	No	No	No	Yes
Section 2	No	No	No	Yes
Section 3	No	No	No	Yes
Section 4	No	No	No	Yes
Section 5	No	No	No	Yes
Section 6	No	No	No	Yes
Section 7	No	No	No	Yes
Section 8	No	No	No	Yes
Schedule 1	No	No	No	Yes
Schedule 2	No	No	No	Yes

Subject matter and legislative competence of devolved legislatures

26 All of the content of this Act affects matters within the devolved (transferred) competence of the Northern Ireland Assembly. The Sewel Convention sets out that the UK Government will not normally legislate in an area of devolved competence without the agreement of the devolved legislatures. In the absence of the Executive and a sitting Assembly, and the pressing need to ensure that public services can continue to be delivered within Northern Ireland, there was neither the time available nor the practical ability for the Assembly to provide a Legislative Consent Motion. We are clear, therefore, that the circumstances in which the Bill was introduced come within the terms of the Convention.

Annex B - Hansard References

27 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	13 November 2017	Vol. 631 Col. 56
Second Reading	13 November 2017	Vol. 631 Col. 59
Committee of the whole House	13 November 2017	Vol. 631 Col. 119
Report and Third Reading	13 November 2017	Vol. 631 Col. 119
<i>House of Lords</i>		
Introduction	13 November 2017	Vol. 785 Col. 1926
Second Reading	14 November 2017	Vol. 785 Col. 1980
Grand Committee	N/A	N/A
Report	N/A	N/A
Third Reading	14 November 2017	Vol. 785 Col. 2016
Commons Consideration of Lords Amendments	N/A	N/A
Royal Assent	16 November 2017	House of Commons Vol. 631 Col. 577
		House of Lords Vol. 785 Col. 2117

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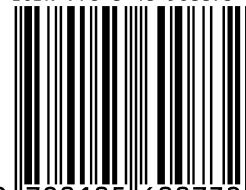
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