

NORTHERN IRELAND BUDGET BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Northern Ireland Budget Bill as introduced in the House of Lords on 24 January 2023 (HL Bill 94).

- These Explanatory Notes have been prepared by the Northern Ireland Office in order to assist the reader of the Bill and 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 deals with matters arising from the continued absence of a Northern Ireland Executive following the Assembly elections on 5 May 2022 and the extension of the Executive Formation period following the failure of the parties to form an Executive by 28 October 2022.
- 2 This Budget legislation authorises Northern Ireland departments and certain other bodies to incur expenditure and use resources for the financial year ending on 31 March 2023, as will be detailed in the corresponding Main Estimates volume to be laid in Parliament before the end of the 2022/23 financial year and summarised in the Schedules to the Bill. It also provides for a vote on account to allow those departments and public bodies to continue to deliver public services into the early months of the 2023/24 financial year.

Policy background

- 3 Ordinarily the passage of a Budget Bill to authorise the issue of sums from the Consolidated Fund of Northern Ireland would be taken through the Northern Ireland Assembly following the agreement of a budget by the Northern Ireland Executive. However, there have been no functioning devolved institutions in Northern Ireland since 3 February 2022, when the then First Minister of Northern Ireland resigned, which also resulted in the deputy First Minister ceasing to hold office. The Executive failed to form after the 5 May 2022 Assembly elections and the subsequent failures to elect a Speaker means that the Assembly cannot conduct any business so it falls to Parliament to legislate to provide authority for departmental expenditure in Northern Ireland.
- 4 The Northern Ireland Assembly passed the Budget Act (Northern Ireland) 2022 on 8 March 2022 to provide the authorisations and appropriations for the revised amounts required for the full 2021/22 financial year and also provided authorisations and appropriations for a vote on account. This was to allow Northern Ireland departments and other public bodies to continue to deliver public services in the early months of the 2022/23 financial year prior to a Budget Bill being passed.
- 5 This vote on account provided access to cash and resources, approximately 45% of the amount authorised for the previous financial year, to ensure that services could continue to be delivered pending the passing of a Budget Bill by the Northern Ireland Assembly for the full 2022/23 financial year.
- 6 In the absence of a Budget Bill and in anticipation of the amounts authorised and appropriated in the vote on account being exhausted, the Permanent Secretary of the Department of Finance in Northern Ireland exercised the emergency powers under section 59 of the Northern Ireland Act 1998¹ and section 7 of the Government Resources and Accounts Act (Northern Ireland) 2001² in order to allow services to continue to be delivered in Northern Ireland. These powers have a limit of up to 95% of the previous year's funding envelope and cannot authorise the use of accruing resources³.
- 7 The Bill will provide the authorisations and appropriations for the balance for the full 2022/23 financial year. The figures in this Bill are based on the Budget announced in Parliament in a

¹[Section 59 of the Northern Ireland Act 1998](#)

²[Section 7 of the Government Resources and Accounts Act \(Northern Ireland\) 2001](#)

³ The income received by a Department that it is authorised to retain to offset related expenditure rather than surrender to the Northern Ireland Consolidated Fund. The limits for such income are set in the Bill.

Written Ministerial Statement by the Secretary of State for Northern Ireland on 24 November 2022.

- 8 This Bill is a necessary step to ensure that public services can continue to be provided in Northern Ireland. It will require devolved spending decisions to be made by senior officers of Northern Ireland departments as provided for by the Northern Ireland (Executive Formation etc) Act 2022.
- 9 No new money will be allocated as a result of the Bill. Instead it will appropriate sums provided to the Consolidated Fund of Northern Ireland through the UK Estimates process, together with revenue generated within Northern Ireland under the Assembly's devolved powers.

Legal background

- 10 In the continuing absence of a Northern Ireland Executive, and the consequent inability of the Northern Ireland Assembly to pass a Budget Act, this Bill provides the required authorisations and appropriations, based on the Budget statement announced in Parliament by the Secretary of State on 24 November 2022 adjusted for the distribution of some centrally held funding and technical transfers between departments for items such as central HR functions. It would be deemed for those purposes to be an Act of the Assembly. To that end, instead of the usual Assembly process, a Main Estimates document will be laid following introduction of this Bill and this would be deemed to be equivalent to the Assembly Supply process.

Territorial extent and application

- 11 The Bill extends across the United Kingdom but applies only to Northern Ireland. See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Fast-track legislation

- 12 The Government intends to ask Parliament to expedite the parliamentary progress of this Bill. In their report on Fast-track Legislation: Constitutional Implications and Safeguards⁴, the House of Lords Select Committee on the Constitution recommended that the Government should provide more information as to why a piece of legislation should be fast-tracked⁵.

Why is fast-tracking necessary?

- 13 It is necessary to fast-track this Bill to safeguard the continued delivery of public services and provide clarity for departments to safeguard public finances and therefore it cannot be delayed further in the absence of a Northern Ireland Executive and a sitting Assembly.
- 14 If there is delay in authorising the issue of sums and use of accruing resources for the full financial year ending 31 March 2023 there is a risk that government departments and other bodies in Northern Ireland will reach the limits of cash and resources which may be

⁴ House of Lords' Constitution Committee, 15th report of session 2008/09, HL paper 116-I

⁵ House of Lords' Constitution Committee, 15th report of session 2008/09, HL paper 116-I, para. 186

authorised by the Permanent Secretary of the Northern Ireland Department of Finance, and that services would cease to be delivered as a result.

What is the justification for fast-tracking each element of the bill?

- 15 The provisions of this Bill are required to provide the necessary authorisations and appropriations to allow public services to continue to be delivered for the full financial year ending 31 March 2023.
- 16 The Budget legislation is required to put the Budget allocations, as set out in the Secretary of State's statement on 24 November, on a legal basis.
- 17 If the Bill does not proceed at pace, the Northern Ireland departments risk running out of cash before the end of the financial year and public services could cease to be delivered as a result. Departments would also be legally unable to access any accruing resources which would result in a significant reduction in the departmental budgets.

What efforts have been made to ensure the amount of time made available for parliamentary scrutiny has been maximised?

- 18 The need for this Bill arises from the continued absence of a Northern Ireland Executive. The Northern Ireland Assembly is unable to conduct business due to the political parties being unable to elect a Speaker or form a new Executive. This Bill is being taken forward at the latest possible point before the risk to public services could manifest but also after the point at which UK Main Estimates have been passed. The figures in this Bill are based on the Budget Statement set out to Parliament on 24 November 2022 but in the circumstances, it has not been possible to give Parliament more time to scrutinise this Bill, without risking the delivery of public services in Northern Ireland.
- 19 As Northern Ireland Ministers remained in office until 28 October 2022, it was not possible for the UK Government to take steps to set a Budget before this date. Prior to leaving office, managing within the Budget was the responsibility of the Northern Ireland Ministers who remained in office.

To what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

- 20 The Bill is being introduced in the absence of a Northern Ireland Executive. The amounts being authorised and appropriated in this Bill are based on a budget position announced in Parliament by the Secretary of State on 24 November 2022, adjusted for the distribution of some centrally held funding and technical transfers between departments for items such as central HR functions, which are based on the advice of the Northern Ireland Civil Service. The approach has been discussed with the Chair of the Northern Ireland Fiscal Council which has recently published reports on the overall sustainability of Northern Ireland Public Finances, a specific deep-dive on Health spending as well as an update on their assessment of the draft budget that was proposed by the previous Northern Ireland Finance Minister in December 2022.

Does the bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why does the Government judge that their inclusion is not appropriate?

- 21 The Bill does not contain a sunset clause. However, the Bill only applies to the financial year ending 31 March 2023 (clauses 1-7) and the financial year ending 31 March 2024 (clauses 8-12).

Are mechanisms for effective post-legislative scrutiny and review in place? If not, why does the Government judge that their inclusion is not appropriate?

- 22 As noted above, clauses 1 to 7 in the Bill only make provision for the issue of sums and the authorisation of the use of resources for the financial year ending 31 March 2023.
- 23 Monitoring and reporting arrangements have been established between the Northern Ireland Office and the Northern Ireland departments for the remainder of the 2022/23 financial year.
- 24 Clauses 8 to 12 which make provision for the issue of sums and the authorisation of the use of resources for the financial year ending 31 March 2024 are a vote on account only, and do not imply the setting of a 2023/24 Budget for the Northern Ireland departments and other public bodies. Its purpose is to provide access to cash and resources (approximately 65% of the amount authorised for the previous financial year) to ensure that services can continue to be delivered pending the consideration of a Budget Bill for the full 2023/24 financial year. While there is no review mechanism, the figures in clauses 8 to 12 will be superseded by a Budget Bill for 2023/24.

Has an assessment been made as to whether existing legislation is sufficient to deal with any or all the issues in question?

- 25 Yes. In anticipation of the amounts authorised and appropriated in the 2022/23 vote on account being exhausted, the Permanent Secretary of the Department of Finance in Northern Ireland exercised the powers under section 59 of the Northern Ireland Act 1998 and section 7 of the Government Resources and Accounts Act (Northern Ireland) 2001 in order to allow services to continue to be delivered in Northern Ireland. These powers are emergency powers intended to be used only in the absence of more orthodox legal authority. They also involve a limit of up to 95% of the previous year's provision and cannot authorise the use of accruing resources, therefore legislation would still be required regardless, albeit at a later point in the year. As a result, they are insufficient to provide the additional sums and use of additional resources required to safeguard the delivery of public services in Northern Ireland for the full 2022/23 financial year.
- 26 Legislation is therefore required in order to allow public services to continue to be delivered in Northern Ireland for the full financial year up to and including 31 March 2023 and into the early part of the new financial year (2023/24) with a vote on account.

Has the relevant parliamentary committee been given the opportunity to scrutinise the legislation?

- 27 Due to the need to implement the Bill urgently, the Northern Ireland Affairs Committee has not scrutinised the Bill in draft. However, the committee has received an informal technical briefing from NIO officials.

Commentary on provisions of Bill

Clauses 1 and 2: Use of resources and limits on use of resources

- 28 Clauses 1 and 2 authorise the use of resources by Northern Ireland departments and other specified public bodies amounting to £26,656,975,000 in the year ending 31 March 2023 for the purposes specified in Part 2 of Schedule 1. The authorisations in clauses 1 and 2 supersede those made by section 6 of the Budget Act (Northern Ireland) 2022, and under section 7 of the

Government Resources and Accounts Act (Northern Ireland) 2001 for the year ending 31 March 2023.

Clauses 3 and 4: Issue and use of sums out of the Consolidated Fund (of Northern Ireland)

- 29 The purpose of clauses 3 and 4 is to authorise the Northern Ireland Department of Finance to issue out of the Consolidated Fund of Northern Ireland the sum of £21,487,341,000 for the purposes set out in Part 2 of Schedule 1. The authorisations in clauses 3 and 4 supersede the authorisations and appropriations made by section 4 of the Budget Act (Northern Ireland) 2022, and under section 59 of the Northern Ireland Act 1998 for the year ending 31 March 2023.

Clause 5: Power of the Department of Finance to borrow

- 30 Clause 5 authorises the temporary borrowing by the Northern Ireland Department of Finance of approximately half the sum covered by clause 3. 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 2023.

Clause 6: Use of Income

- 31 Clause 6 authorises the use of income by Northern Ireland departments and other specified public bodies from the sources specified in Part 3 of Schedule 1, for the purposes specified in part 2 of Schedule 1 in the year ending 31 March 2023.

Clause 7: Operation from beginning of the year ending 31 March 2023

- 32 As the authorisations in clauses 1 to 6 supersede previous authorisations in the Budget Act (Northern Ireland) 2022 and authorisations previously made under section 59 of the Northern Ireland Act 1998 and under Section 7 of the Government Resources and Accounts Act (Northern Ireland) 2001, clause 7 allows the clauses 1 to 6 to be treated as having effect from the beginning of 1 April 2022.

Vote on Account - 2024

Clauses 8 and 9: Use of Resources and limits on use of resources

- 33 Clauses 8 and 9 authorise the use of resources by Northern Ireland departments and other specified public bodies amounting to £17,404,266,000 in the year ending 31 March 2024 for the purposes specified in Part 2 of Schedule 2.

Clauses 10 and 11: Issue and use of sums out of the Consolidated Fund (of Northern Ireland)

- 34 The purpose of clauses 10 and 11 are to authorise the Northern Ireland Department of Finance to issue out of the Consolidated Fund of Northern Ireland the sum of £14,154,737,000 for the purposes set out in Schedule 2 Part 2.

Clause 12: Power of the Department of Finance to borrow

- 35 Clause 12 authorises the temporary borrowing by the Northern Ireland Department of Finance of approximately half the sum covered by clause 10. 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 2024.

Clause 13: Act to take effect as if it were a Budget Act of the Assembly etc.

- 36 Clause 13 provides for this Bill to have the same effect as if it were a Budget Act of the Northern Ireland Assembly including references in other pieces of legislation relating to the requirement for the laying and approval of estimates.

Clause 14: Repeal of provisions superseded by this Act

- 37 Clause 14 repeals sections 4 to 6 of, and Schedules 3 and 4 to, the Budget Act (Northern Ireland) 2022 which are superseded by the authorisations in this Bill.

Clause 15: Interpretation and Clause 16: Short title

- 38 These provisions are self-explanatory.

Schedule 1

Part 1 – Authorised Amounts

- 39 Part 1 of Schedule 1 sets out the amount of resources authorised for use by each Department and other public bodies (clauses 1 and 2) and the sums of money granted to each Northern Ireland department and other bodies (clause 3 and 4) for the year ending 31 March 2023.

Part 2 – Expenditure

- 40 Part 2 of Schedule 1 sets out the purposes for which resources (clause 2) and money (clause 4) can be used by each Northern Ireland department and other bodies for the year ending 31 March 2023.

Part 3 – Income

- 41 Part 3 of Schedule 1 sets out the sources from which income can be used by each Northern Ireland department and other body for the year ending 31 March 2023.

Schedule 2

Part 1 – Authorised Amounts

- 42 Part 1 of Schedule 2 sets out the amount of resources authorised for use by each Department and other public body (clauses 8 and 9) and the sums of money granted to each Northern Ireland department and other body (clauses 10 and 11) for the year ending 31 March 2024.

Part 2 – Expenditure

- 43 Part 2 of Schedule 2 sets out the purposes for which resources (clause 9) and money (clause 11) can be used by each Northern Ireland department and other body for the year ending 31 March 2024.

Commencement

- 44 The Bill will come into force on Royal Assent.

Financial implications of the Bill

- 45 This Bill will authorise the issue of the sum of £21,487,341,000 from the Consolidated Fund of Northern Ireland and the use of resources to the amount of £26,656,975,000 for the year ending 31 March 2023 and the issue of the sum of £14,154,737,000 from the Consolidated Fund of

Northern Ireland and the use of resources to the amount of £17,404,266,000 for the year ending 31 March 2024 by Northern Ireland departments and other public bodies.

Parliamentary approval for financial costs or for charges imposed

- 46 This Bill will authorise the issue of sums to and the use of resources by Northern Ireland departments and other public bodies. This is not new money, as it is an authorisation for issue from the Consolidated Fund of Northern Ireland and use of resources by departments and other public bodies in Northern Ireland that would normally be done by the Assembly and is money appropriated by Parliament in the UK Estimates process, together with revenue generated locally within Northern Ireland under the Assembly's devolved powers.

Compatibility with the European Convention on Human Rights

- 47 We do not consider that the provisions of this Bill engage any rights under the European Convention on Human Rights.
- 48 Section 19 of the Human Rights Act 1998 requires a minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the Bill with Convention rights (as defined by section 1 of that Act).
- 49 The Parliamentary Under-Secretary of State for Northern Ireland, Lord Caine, has made the following statement:
- "In my view, the provisions of the Northern Ireland Budget Bill are compatible with Convention rights."

Environmental law for the purposes of the Environment Act 2021

- 50 Lord Caine is of the view that the Bill as introduced into the House of Lords does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

- 51 The following documents are relevant to the Bill and can be read at the stated locations:
- Northern Ireland Finances 2022/23 - Statement made on 24 November 2022 by the Secretary of State for Northern Ireland: <https://questions-statements.parliament.uk/written-statements/detail/2022-11-24/hcws385>

Annex A – Territorial extent and application in the United Kingdom

52 The Bill 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?	Legislative Consent Motion needed? ⁶
Clause 1	No	No	No	Yes	Yes
Clause 2	No	No	No	Yes	Yes
Clause 3	No	No	No	Yes	Yes
Clause 4	No	No	No	Yes	Yes
Clause 5	No	No	No	Yes	Yes
Clause 6	No	No	No	Yes	Yes
Schedule 1	No	No	No	Yes	Yes
Schedule 2	No	No	No	Yes	Yes

Subject matter and legislative competence of devolved legislatures

53 All of the content of this Bill 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 given the pressing need to ensure that public services can continue to be delivered within Northern Ireland, there is neither the time available nor the practical ability for the Assembly to provide a Legislative Consent Motion. The UK Government is clear, therefore, that the circumstances in which this Act will be introduced would come within the exception allowed by the Convention.

⁶ Refer to paragraph 53 for rationale on why the UK Government cannot seek a Legislative Consent Motion despite identifying that one would normally be needed.

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