

BUDGET RESPONSIBILITY BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Budget Responsibility Bill as brought from the House of Commons on 5 September 2024 (HL Bill 24).

- These Explanatory Notes have been provided by HM Treasury in order to assist the reader of the Bill. 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.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	2
Policy background	2
Legal background	3
Territorial extent and application	3
Commentary on provisions of Bill	3
Clause 1: Announcement of fiscally significant measures	3
Clause 2: Extent, commencement and short title	5
Commencement	5
Financial implications of the Bill	5
Parliamentary approval for financial costs or for charges imposed	5
Compatibility with the European Convention on Human Rights	5
Statement under section 20 of the Environment Act 2021	6
Statement under section 13C of the European Union (Withdrawal) Act 2018	6
Related documents	6
Annex A – Territorial extent and application in the United Kingdom	7
Subject matter and legislative competence of devolved legislatures	7

Overview of the Bill

- 1 The Budget Responsibility Bill seeks to ensure that fiscal announcements in respect of fiscally significant measures made by the Government are subject to an independent assessment by the Office for Budget Responsibility (OBR). It would achieve this by requiring the OBR to produce an assessment of the fiscal impacts of fiscally significant measures, without a request from HM Treasury if necessary.

Policy background

- 2 The OBR is an executive non-departmental public body, sponsored by HM Treasury, which provides independent and authoritative analysis of the UK's public finances. The OBR was established under the Budget Responsibility and National Audit Act 2011 ("the BRNAA").
- 3 Under section 4(3) of the BRNAA, the OBR is required to "on at least two occasions for each financial year, prepare fiscal and economic forecasts", including an assessment of "the extent to which the fiscal mandate has been, or is likely to be, achieved". HM Treasury's Charter for Budget Responsibility ("the Charter"), which sets out its fiscal policy objectives and is subordinate to the BRNAA, states that the Chancellor must commission the OBR to produce its forecasts at a particular date, at least twice a year and one of which will be for the Budget. The Charter also states that OBR forecasts are to be adopted as the official forecasts for Budget Reports. HM Treasury has agreed with the OBR, via a published Memorandum of Understanding, to provide them with 10 weeks' notice for a full forecast/fiscal event.
- 4 Under the current legal framework, there is no requirement on HM Treasury to subject announcements on all fiscally significant measures to independent OBR scrutiny. The Budget Responsibility Bill would therefore seek to ensure that all announcements on fiscally significant measures made by the Government are subject to an independent assessment from the OBR. It does this by requiring HM Treasury, ahead of a Minister making a fiscal announcement to the House of Commons regarding a fiscally significant measure, to commission an economic and fiscal forecast from the OBR. If the Treasury does not make this request and the OBR is of the opinion that the measure is fiscally significant, it also places a new requirement on the OBR to produce assessments of fiscally significant measures as soon as reasonably practicable.
- 5 These measures intend to preserve market stability and public trust in announcements on fiscally significant measures, by ensuring there is independent and transparent scrutiny of the Government's fiscal plans.

Legal background

- 6 The statutory framework for the OBR is set out in:
 - a. The **Budget Responsibility and National Audit Act 2011** (“the BRNAA”) - which establishes the OBR on a statutory basis and sets out the OBR’s statutory duty to examine and report on the sustainability of public finances; and
 - b. HM Treasury’s **Charter for Budget Responsibility** (“the Charter”) - which was introduced in the BRNAA, and which sets out the OBR’s remit, how it should perform its duties, the required content of key publications, and arrangements for determining forecast timing. It also sets out the fiscal framework against which the OBR should assess the Government’s fiscal plans. The Charter is drafted by HM Treasury, must be laid before Parliament, and does not come into force until approved by the House of Commons. Any modification to the Charter concerning guidance as to how the OBR’s duty is to be performed must also be published in draft 28 days before it is laid in Parliament.
- 7 In addition, a Memorandum of Understanding (“the MoU”), which is jointly agreed between HMT, the OBR, HM Revenue and Customs and the Department for Work and Pensions, establishes the processes and expectations for information sharing, notification of publications, and working arrangements ahead of fiscal events.
- 8 Neither the BRNAA nor the Charter require the OBR’s assent to modify, but they do require Parliamentary approval:
 - a. Amendments to the BRNAA require primary legislation in the usual way; and
 - b. Amendments to the Charter must be laid before Parliament and approved by a vote of the House of Commons. The updated Charter must be published in draft at least 28 days before it can be laid before Parliament where the Charter is modifying guidance as to how the OBR’s duty is to be performed.

Territorial extent and application

- 9 The Bill extends and applies to England, Scotland, Wales and Northern Ireland.
- 10 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: Announcement of fiscally significant measures

- 11 Subsection (1) notes that this Bill will amend part 1 of the BRNAA, which relates to the establishment of the OBR.
- 12 Subsection (2) amends section 4 of the BRNAA to reflect the additional duties introduced in this Bill, so that section 4(2) will read: “The duty imposed by this section includes, in particular, the duties imposed on the Office by subsections (3) and (4) and section 4A”.
- 13 Subsection (3) introduces a new section 4A.
- 14 Subsection (1) of section 4A states if a Minister of the Crown plans to make a fiscal announcement in respect of fiscally significant measures to the House of Commons, then HM

Treasury must request that the OBR prepare a report under section 4(3) of the BRNAA which will assess these measures. As described in paragraph 3 above, Section 4(3) of the BRNAA requires the OBR to produce fiscal and economic forecasts, including assessments of the extent to which the Government is meeting its fiscal mandate. Subsection (1) sets out the typical forecast process whereby the Chancellor commissions a forecast from the OBR to go alongside a Budget (in accordance with the Charter), or a fiscal event. The typical process is for the Chancellor to commission the OBR, at least twice per financial year, to publish forecasts of the economy and public finances.

- 15 Subsection (2) of section 4A means that, if the OBR deems that a fiscal announcement in respect of fiscally significant measures has been made to the House of Commons, and HM Treasury did not request an economic and fiscal forecast to be published alongside the announcement, it is required to inform the Treasury Committee of its opinion, and to prepare a report including a costing that assesses the fiscal impact of each measure. The OBR may, but is not required to, prepare this report as an economic and fiscal forecast under section 4(3) of the BRNAA.
- 16 Subsection (3) of section 4A sets out that a measure or combination of measures is “fiscally significant” if the measure, or a combination of measures, has a costing for a specified period that exceeds a specified percentage of gross domestic product for a specified period – here, “specified” means specified in, or determined in accordance with, the Charter. Measures seeking to address tax avoidance are not intended to be within the scope of section 4(A)(2) and (3) as the Charter will make it clear that this subsection does not cover measures that do not have a policy costing, which tax avoidance measures would not (paragraph 17 below explains that the Charter can set out further provision for the meanings of terms, including costing).
- 17 Subsection (4) of section 4A provides that the need for an independent OBR assessment (in subsections (1) and (3) of section 4A) does not apply for measures that are intended to have a temporary effect and which are in response to an emergency. This subsection is intended to exclude fiscally significant measures that are required in response to economic or other large shocks, such as was the case during the COVID-19 pandemic when significant emergency spending was needed very rapidly via the furlough scheme. This exclusion recognises that it is reasonable for the Government, in response to economic or other large shocks, to act quickly outside of a fiscal event without an OBR assessment. As already set out in the Charter, in an emergency, the Chancellor may commission a forecast, or request analysis, from the OBR to follow the measures that need to be announced or implemented more quickly than such analysis can be produced. It is not intended to exclude temporary measures where there has not been an emergency in the usual sense of the word, nor economic or other large shocks, such as the temporary full expensing policy for capital allowances announced in the Spring 2023 Budget.
- 18 Subsection (5) of section 4A allows the Charter for Budget Responsibility to include further detail, definitions or explanations to clarify new section 4A. Subsection (5) may be exercised so that the Charter includes provision about the meaning of expressions used in subsection (1) to (4) but which are not defined elsewhere in section 4A or in other provisions of the BRNAA.
- 19 Subsection (6) of section 4A requires that HM Treasury publish any updates to the Charter for Budget Responsibility at least 28 days before laying it before Parliament for approval by the House of Commons. This only applies to the provisions under new section 4A of the BRNAA.
- 20 Subsection (7) of section 4A clarifies definitions of terms used in Clause 1. A “fiscal announcement” means an announcement in respect of any other matter mentioned in section 1(2)(c) of the BRNAA, i.e. the matters to be included in a Financial Statement and Budget

Report prepared under section 2 of the BRNAA. A “section 4 (3) report” includes fiscal and economic forecasts and an assessment of the extent to which the fiscal mandate has been, or is likely to be, achieved.

- 21 Subsection (8) of section 4A makes clear that it does not matter for the purposes of this section whether or not two or more measures are, or are proposed to be, announced at the same time or at different times.
- 22 Subsection (9) of section 4A ensures that the provisions of new section 4A that refer to the Treasury Select Committee continue to operate as intended if the name of the Treasury Select Committee changes or its functions are transferred to a different Committee.

Clause 2: Extent, commencement and short title

- 23 Subsection (1) notes that the provisions extend to England, Wales, Scotland and Northern Ireland.
- 24 Subsection (2) provides that the Treasury may commence clause 1 by regulations following Royal Assent.
- 25 Subsection (3) states that clause 1 may come into force over different days.
- 26 Subsection (4) gives the short title of the Bill as the Budget Responsibility Act 2024.

Commencement

- 27 Clause 1 of the Bill will come into force following regulations made by HM Treasury. Clause 2 of the Bill will come into force on Royal Assent.

Financial implications of the Bill

- 28 The Bill creates new charges on the public revenue by virtue of imposing new duties on the Treasury and the OBR.

Parliamentary approval for financial costs or for charges imposed

- 29 A money resolution was passed by the House of Commons for the Bill on 30 July 2024 because the Bill authorises new charges on the public revenue. The money resolution was required because of the new duties imposed on the Treasury and the OBR by new section 4A of BRNAA.
- 30 The Bill does not require a ways and means resolution.

Compatibility with the European Convention on Human Rights

- 31 The Government considers that the Bill is compatible with the European Convention on Human Rights (“ECHR”). Accordingly, the Financial Secretary to the Treasury has made a statement under clause 19(1)(a) of the Human Rights Act 1998 to this effect.

Statement under section 20 of the Environment Act 2021

32 The Financial Secretary to the Treasury is of the view that the Bill as introduced into the House of Commons 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.

Statement under section 13C of the European Union (Withdrawal) Act 2018

33 The Financial Secretary to the Treasury is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018 has been made.

Related documents

34 The following documents are relevant to the Bill and can be read at the stated locations:

- Budget Responsibility and National Audit Act 2011:
<https://www.legislation.gov.uk/ukpga/2011/4/contents>
- Charter for Budget Responsibility (Autumn 2022 update):
https://assets.publishing.service.gov.uk/media/63d15c6cd3bf7f3c4900f11a/Charter_for_Budget_Responsibility_-_AS22_-_FINAL_as_published_in_draft.pdf

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	No	Yes	No	Yes	No
Clause 2	Yes	Yes	No	Yes	No	Yes	No

Subject matter and legislative competence of devolved legislatures

- 35 The provisions in this Bill relate to reserved matters under the Scotland Act 1998 and the Government of Wales Act 2006 as amended by the Wales Act 2017. Under the Northern Ireland Act 1998, the provisions of this Bill relate to excepted matters.

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