

NORTHERN IRELAND BUDGET ACT 2018

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Northern Ireland Budget Act 2018 (c. 20) which received Royal Assent on 19 July 2018.

- These Explanatory Notes have been prepared by the Northern Ireland Office in order to assist the reader in understanding the Act. 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 means in practice; provide background information on the development of policy; and provide additional information on how the Act affects 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 continued absence of a Northern Ireland Executive, and the consequent inability of the Northern Ireland Assembly to pass legislation to provide the authority for departmental expenditure.
- 2 It authorises Northern Ireland departments and certain other bodies to incur expenditure and use resources for the financial year ending on 31 March 2019, as detailed in the corresponding Main 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 by Ministers in the Northern Ireland Executive. However, there has been no Executive since 9 January 2017, when the then deputy First Minister of Northern Ireland resigned, which also resulted in the First Minister ceasing to hold office. The Northern Ireland Assembly has not met since its first post-election meeting in March 2017. Without an Executive to agree a Budget and a sitting Assembly to pass Budget Acts, it falls to Parliament to legislate to provide authority for expenditure in Northern Ireland.
- 4 Budget Acts are normally passed twice during each financial year when the devolved institutions are in place. The first is done based on the opening budget position for the financial year following the agreement of a Budget. The second is done at the end of the financial year to seek authority for the changes which have been made to the budget allocations during the course of the financial year. In order to allow space for talks with the Northern Ireland political parties the first Northern Ireland Budget Act was not brought forward at the start of the 2017-18 financial year. Instead the Northern Ireland Budget Act 2017 was passed by Parliament in November 2017 in order to provide the required authorisations and appropriations for the full 2017-18 financial year based on the most up to date spending plans at that time.
- 5 Following this, the Northern Ireland Civil Service continued to manage the delivery of services in Northern Ireland. This involved the reallocation and reprioritisation of some budgets, and also the allocation of new funding which has become available to the Northern Ireland administration as a result of the funds authorised by Parliament in the UK Estimates process. Parliament's authorisation for these revisions was provided in the Northern Ireland Budget (Anticipation and Adjustments) Act 2018 in March 2018.
- 6 In addition to providing the authorisations and appropriations for the revised amounts required for the full 2017-18 financial year, the Northern Ireland Budget (Anticipation and Adjustments) Act 2018 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 into the early months of the 2018-19 financial year.
- 7 This vote on account is a normal process for any Supply and Appropriation Act and did not imply the setting of a 2018-19 Budget for the Northern Ireland departments and other public bodies. Its purpose was to provide access to cash and resources, approximately 45 per cent of the amount authorised for the previous financial year, to ensure that services could continue to be delivered pending the consideration of a Budget Act for the full 2018-19 financial year.
- 8 The amounts authorised and appropriated in the vote on account were expected to begin to be exhausted from 31 July 2018, and the purpose of the Act is to provide the authorisations and appropriations for the balance to complete each department's full 2018-19 cash and resource

requirements. The figures in this Act are based on the 2018-19 Budget announced in Parliament for the Northern Ireland departments by the Secretary of State on 8 March 2018, adjusted for the distribution of some centrally held funding, and technical transfers between departments for items such as central HR functions.

- 9 This Act is a minimal step to ensure that public services can continue to be provided in Northern Ireland for the full financial year. It leaves in place the requirement for devolved spending decisions to be made by the Northern Ireland Executive or, in the ongoing absence of Ministers, the Northern Ireland Civil Service. In addition the revised allocations set out in the Act continue to be based on the advice of the Head of the Northern Ireland Civil Service and the Northern Ireland Civil Service Board.
- 10 No new money was voted as a result of the Act. Instead it appropriates sums already 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

- 11 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, a Main Estimates document was laid alongside this Act and is deemed to be equivalent to the Assembly supply process.
- 12 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 Main Estimates document), to these departments.

Territorial extent and application

- 13 The Act 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.

Commentary on provisions of Act

Section 1 – Issue of sums out of the Consolidated Fund for year ending 31 March 2019 and appropriation of that sum

- 14 Section 1 authorises the issue out of the Consolidated Fund of Northern Ireland the sum of £8,907,660,000 for the purposes set out in Schedule 1. This authorisation is in addition to the authorisation in section 4 of the Northern Ireland Budget (Anticipation and Adjustments) Act 2018. 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 UK Estimates process, together with revenue generated within Northern Ireland.

Section 2 – Power of the Department of Finance to borrow

- 15 Section 2 authorises the temporary borrowing by the Northern Ireland Department of Finance of approximately half the sum covered by Section 1. This is to 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 2019.

Section 3 – Use of resources (other than accruing resources) in the year ending 31 March 2019

- 16 Section 3 authorises the use of resources amounting to £9,934,658,000 in the year ending 31 March 2019 by the bodies listed in Section 3(3) for the purposes specified in column 1 of Schedule 2; the amount authorised is set out in column 2 of that Schedule. As with Section 1, this authorisation is in addition to the authorisation in section 6 of the Northern Ireland Budget (Anticipation and Adjustments) Act 2018.
- 17 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 2019

- 18 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 2019. 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

- 19 Section 5 provides for this Act to have the same effect as if it were an Act of the Northern Ireland Assembly. It also modifies references in other pieces of 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 Act, 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

- 20 Section 6 is short and self-explanatory. It repeals two Budget Acts of the Northern Ireland Assembly from 2015 which are now deemed to be spent.

Section 7 – Interpretation

- 21 Section 7 is short and self-explanatory. It provides the meaning of some terms used with the Act.

Section 8 – Short title

- 22 Section 8 is short and self-explanatory. It provides the short title for the Act, once it is passed.

Schedule 1 – Sums granted for the year ending 31 March 2019

- 23 Schedule 1 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 2019

- 24 Schedule 2 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 (see Section 4).

Commencement

- 25 The Act will come into force on the day on which it is passed.

Annex A - Territorial extent and application in the United Kingdom

26 The Act extends 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?
Sections 1-8	No	No	No	Yes
Schedules 1 & 2	No	No	No	Yes

Subject matter and legislative competence of devolved legislatures

27 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 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.

Annex B - Hansard References

28 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	27 June 2018	Vol. 643 Col. 912
Second Reading	9 July 2018	Vol. 644 Col. 753
Committee of the whole House	9 July 2018	Vol. 644 Col. 797
Report and Third Reading	9 July 2018	Vol. 644 Col. 820
<i>House of Lords</i>		
Introduction	10 July 2018	Vol. 792 Col. 892
Second Reading	18 July 2018	Vol. 792 Col 1229
Grand Committee	N/A	N/A
Report	N/A	N/A
Third Reading	18 July 2018	Vol. 792 Col 1260
Commons Consideration of Lords Amendments	N/A	N/A
Royal Assent	19 July 2018	House of Commons Vol. 645 Col. 626
		House of Lords Vol. Vol. 792 Col. 1396

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