

NORTHERN IRELAND BUDGET (ANTICIPATION AND ADJUSTMENTS) ACT 2018

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Northern Ireland Budget (Anticipation and Adjustments) Act 2018 (c. 8) which received Royal Assent on 28 March 2018.

- These Explanatory Notes have been prepared by the Northern Ireland Office in order to assist the reader of 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 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 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 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 Spring Supplementary Estimates volume and summarised in the Schedules to the Act. 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 2018-19 financial year.

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 fell 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 Since then, the Northern Ireland Civil Service has continued to manage the delivery of services in Northern Ireland. This has 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. This Act provides Parliament's authorisation for these revisions
- 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 based on the Northern Ireland Civil Service's final budget plans. This supersedes the authorisations provided in the Northern Ireland Budget Act 2017.
- 7 In addition to providing the authorisations and appropriations for the revised amounts required for the full 2017-18 financial year, the Act also provides authorisations and appropriations for a vote on account. This is 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.

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- 8 This vote on account is a normal process for any Supply and Appropriation Act and does not imply the setting of a 2018-19 Budget for the Northern Ireland departments and other public bodies. Its purpose is to provide access to cash and resources, approximately 45% of the amount authorised for the previous financial year, to ensure that services can continue to be delivered pending the consideration of a Budget Act for the full 2018-19 financial year. This could be taken forward in due course by a restored Executive, or at Westminster in its absence.
- 9 This Act is a minimal step to ensure that public services continue to be provided in Northern Ireland. 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, as was the case for the Northern Ireland Budget Act 2017.
- 10 No new money is voted as a result of the Act. Instead it appropriates sums already in the Consolidated Fund of Northern Ireland, together with revenue generated locally 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 based on the final Budget plans, which are based on the advice from the Head of the Northern Ireland Civil Service and the Northern Ireland Civil Service Board. It is deemed for those purposes to be an Act of the Assembly. To that end, instead of the usual Assembly process, a Spring Supplementary Estimates document was laid alongside the Bill and this 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 will leave spending decisions, within the overall totals voted (and the more detailed totals in the Spring Supplementary Estimates document), to these departments.

Territorial extent and application

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

Commentary on provisions of Act

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

14 Section 1 authorises the issue out of the Consolidated Fund of Northern Ireland the sum of £16,114,708,000 for the purposes set out in Schedule 1. This authorisation supersedes those amounts previously authorised by the Northern Ireland Budget Act 2017. 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, together with revenue generated locally within Northern Ireland under the Assembly's devolved powers.

Section 2 – Use of resources (other than accruing resources) in the year ending 31 March 2018

15 Section 2 authorises the use of resources amounting to £18,040,802,000 in the year ending 31 March 2018 by the bodies listed in Section 2(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 Northern Ireland Budget Act 2017. 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, together with revenue generated locally within Northern Ireland under the Assembly's devolved powers.

16 There is a distinction between the cash sum authorised for issue in Section 1, and the amount of resources authorised for use in Section 2. 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 2 exclude those items, but include non-cash items, mainly the depreciation of assets and creation of new provisions.

Section 3 – Limits on use of certain accruing resources in the year ending 31 March 2018

17 Section 3 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 4 – Issue of sums out of the Consolidated Fund for year ending 31 March 2019 and appropriation of that sum

18 Section 4 authorises the issue out of the Consolidated Fund of Northern Ireland the sum of £7,343,531,000 for the purposes set out in Schedule 3. This authorisation is a vote on account to allow public services to continue to be delivered into the early months of the new financial year. This is a normal process for any supply and appropriation Act and does not imply the setting of a Budget for the 2018-19 year. Its purpose is to provide access to cash and resources to ensure that services can continue to be delivered pending the consideration of a Budget Act for the full 2018-19 financial year, which should be done by the Northern Ireland Assembly based on a Budget position agreed by the Northern Ireland Executive.

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Section 5 – Power of the Department of Finance to borrow

19 Section 5 authorises the temporary borrowing by the Northern Ireland Department of Finance of approximately half the sum covered by Section 4. 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 6 – Use of resources (other than accruing resources) in the year ending 31 March 2019

20 Section 5 authorises the use of resources amounting to £8,191,344,000 in the year ending 31 March 2019 by the bodies listed in Section 6(2) for the purposes specified in column 1 of Schedule 4; the amount authorised is set out in column 2 of that Schedule. As with Section 4, this authorisation is a vote on account to allow public services to continue to be delivered into the early months of the new financial year. This is a normal process for any Supply and Appropriation Act and does not imply the setting of a Budget for the 2018-19 year. Its purpose is to provide access to cash and resources to ensure that services can continue to be delivered pending the consideration of a Budget Act for the full 2018-19 financial year which should be done by the Northern Ireland Assembly based on a Budget position agreed by the Northern Ireland Executive.

Section 7 – Act to take effect as if it were a Budget Act of the Assembly

21 Section 7 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.

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

22 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 Sets out the amount of resources authorised for use by Departments and other bodies (see Section 2), and the limits to use of accruing resources (Section 3).

Schedule 3 – Sums granted for the year ending 31 March 2019

24 Sets out the purpose and sums of money granted to Northern Ireland departments and other bodies under this Act (under Section 4).

Schedule 4 – Amounts of resources authorised for use in the year ending 31 March 2019

25 Sets out the amount of resources authorised for use by Departments and other bodies (see Section 6),

Commencement

26 The Act came into force on Royal Assent.

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Annex A - Territorial extent and application in the United Kingdom

27 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?	Would corresponding provision be within the competence of the Northern Ireland Assembly?
Section 1	No	No	No	Yes	Yes
Section 2	No	No	No	Yes	Yes
Section 3	No	No	No	Yes	Yes
Section 4	No	No	No	Yes	Yes
Section 5	No	No	No	Yes	Yes
Section 6	No	No	No	Yes	Yes
Section 7	No	No	No	Yes	Yes
Section 8	No	No	No	Yes	Yes
Section 9	No	No	No	Yes	Yes
Schedule 1	No	No	No	Yes	Yes
Schedule 2	No	No	No	Yes	Yes
Schedule 3	No	No	No	Yes	Yes
Schedule 4	No	No	No	Yes	Yes

Subject matter and legislative competence of devolved legislatures

28 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 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 exception allowed by the Convention.

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Annex B – Hansard References

29 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	20 March 2018	Vol. 638 Col. 193
Second Reading	20 March 2018	Vol. 638 Col. 196
Committee of the whole House	20 March 2018	Vol. 631 Col. 245
Report and Third Reading	20 March 2018	Vol. 631 Col. 245
<i>House of Lords</i>		
Introduction	21 March 2018	Vol. 790 Col. 316
Second Reading	27 March 2018	Vol. 790 Col. 761 Debate Vol. 790 Col. 729
Grand Committee	N/A	N/A
Report	N/A	N/A
Third Reading	27 March 2018	Vol. 790 Col. 761
Commons Consideration of Lords Amendments	N/A	N/A
Royal Assent	27 March 2018	House of Commons Vol. 638 Col. 737
		House of Lords Vol. 790 Col. 785

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Published by TSO (The Stationery Office), part of Williams Lea Tag, and available from:

Online
www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

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£6.00

ISBN 978-0-10-560085-5



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