

Budget (Scotland) (No.5) Bill

Delegated Powers Memorandum

Introduction

1. This memorandum has been prepared by the Scottish Government in accordance with Rule 9.4A of the Scottish Parliament's Standing Orders, in relation to the Budget (Scotland) (No.5) Bill. It describes the purpose of the subordinate legislation provision in the Bill and outlines the reasons for seeking the proposed power.
2. The contents of this memorandum are entirely the responsibility of the Government and have not been endorsed by the Parliament.

Outline of Bill Provisions

3. The Budget Bill is the vehicle through which the Government seeks parliamentary approval of its spending plans for the coming financial year (in this case, 2021-22). Overall spending amounts, and the allocation of resources to purposes, must be authorised by the Parliament.
4. The Bill contains one power to make subordinate legislation in section 7.

Rationale for Subordinate Legislation

5. There is a clearly established need for a mechanism to make in-year changes to annual Budget Acts. Using subordinate legislation to effect those changes has been standard practice since devolution began. It enables the Parliament to scrutinise the changes in a way that makes best use of valuable parliamentary time.

Delegated Powers

Section 7 – Budget Revision Regulations

Power Conferred On: The Scottish Ministers

Power Exercisable By: Regulations Made by Scottish

Statutory Instrument Parliamentary Procedure: Affirmative Procedure

Provision

6. Section 7 allows the Government, by regulations, to alter the overall cash authorisations for different bodies and adjust schedules 1 to 3.

7. Schedule 1 lays down the amount of resources that the Scottish Administration can use for different purposes. Section 7 allows the purposes and the amounts ascribed to them to be modified.

8. Schedule 2 has much the same function as schedule 1 in relation to those bodies which receive their funding from the Scottish Consolidated Fund directly, namely the Scottish Parliamentary Corporate Body and Audit Scotland. Section 7 allows schedule 2 to be modified for the same purposes as it can be used to modify schedule 1.

9. Schedule 3 sets the annual borrowing limits for certain statutory bodies. Section 7 allows those limits to be adjusted.

Reason for Taking Power

10. Inevitably, the Government's spending plans will change over the course of a financial year. Changes might be required for a number of reasons including:

- transfers of resources within the Scottish Government
- transfers of resources between the Scottish Government and the UK Government
- changes in accounting and classification guidelines
- the allocation of resources from central funds, including the Contingency Fund and for end-year-flexibility allocations

11. There is therefore a need for a mechanism to allow the Government to seek authorisation for in-year changes. The use of subordinate legislation for this purpose was recommended by the pre-devolution Financial Issues Advisory Group (paragraph 3.40 of their final report). It is also the process provided for in the agreement on the budget process between the Parliament and the Government.

12. Since devolution began, every annual Budget Act has been revised at least once by subordinate legislation.

Choice of Procedure

13. Budget revision regulations (or budget revision orders as they originally were) have been subject to the affirmative procedure since devolution began. As they modify primary legislation, the Government considers it appropriate that they be subject to the level of scrutiny that the affirmative procedure entails.

This document relates to the Budget (Scotland) (No.5) Bill (SP Bill 87)
as introduced in the Scottish Parliament on 28 January 2021

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