



## **THE BUDGETING PROCESS AGREEMENT BETWEEN THE SCOTTISH EXECUTIVE AND THE FINANCE COMMITTEE**

### **Foreword**

1. This document sets out an understanding between the Scottish Parliament and the Scottish Ministers on the administrative arrangements for the annual budgeting process. It sets out the way in which the budget process will operate and defines the responsibilities of both parties. It is not intended to create any legal rights or obligations on either the Scottish Ministers or the Scottish Parliament.

2. Some of the underlying principles of the budgeting process are set out in the Public Finance and Accountability (Scotland) Act 2000, some are set out in the Parliament's Standing Orders, and other measures will be incorporated in Budget Bills. This agreement supplements these statutory provisions. It sets out those principles and procedures that do not require legislation.

### **Introduction**

3. The principles and procedures are based on the recommendations of the Financial Issues Advisory Group (FIAG) as amended following experience from the first devolved Parliament. The Group originally proposed an annual three stage budget process:

#### Stage 1

3.1 Stage 1 would be a consideration of spending strategy. Its purpose would be to enable the Parliament to express its views on future expenditure priorities. FIAG recommended that the process should include the opportunity for the Parliament to seek views from the public. (This aspect of the process is a matter for the Parliament alone.)

#### Stage 2

3.2 Stage 2 would be a consideration by the Parliament of the Scottish Ministers' detailed spending proposals for the next financial year.

### Stage 3

Stage 3 would be Parliamentary consideration of the annual Budget Bill.

It was FIAG's intention that this three stage budget process would enable financial decisions to be shared between the people of Scotland, the Parliament and the Scottish Ministers.

4. The process has subsequently been adapted to reflect the central importance of the biennial Spending Review cycle in setting spending plans, and experience gained over the life of the first Parliament. Spending Reviews set plans for three forward years (for example, Spending Review 2002 set plans for 2003-04, 2004-05 and 2005-06), with the last of the three years being reconsidered as the first year of the next Spending Review. Changes made to budgets in non-Spending Review years are likely to be more limited.

5. This suggests the full three stage process is only appropriate in Spending Review years, with a more limited process in intervening years considering just the changes made to plans set in the Spending Review. Further support for this approach is provided by the fact that every second non Spending Review year (that is, every fourth year) is an election year. With Holyrood elections falling in May, it makes little sense to plan an extended budget process running from March to September.

6. The process also needs to take full account of the timing difficulties caused by the current UK Spending Review cycle. Recent experience is for the results of UK Spending Reviews to be announced in June or July. This gives the Executive a very tight window in which to conclude its own review in time for the 20<sup>th</sup> September deadline initially agreed for the publication of the Draft Budget. It is likely that fully detailed spending plans will not be available at this point – in the last two Scottish spending reviews, such detail has not been available until October. This in turn limits the time available to the Parliamentary Committees for their scrutiny - there is no opportunity to delay the end of Stage 2 without increasing the risk that the Budget Bill will not gain royal assent before the start of the relevant financial year. This suggests that **the Committees' main scrutiny should as far as possible be centred on Stage 1 in Spending Review years.**

7. The Finance Committee and the Executive have therefore agreed a biennial cycle, with a full three stage process in Spending Review (even numbered) years, and a more limited process in non Spending Review and election (odd numbered) years, as set out below.

### **Stage 1**

8. Stage 1 will only take place in Spending Review years.

9. The purpose of stage 1 is to enable the Parliament to consider its future spending priorities. In order to avoid the prospect of the Parliament considering financial issues without sufficient information, the Scottish Ministers undertake to submit each year to the Parliament (by 31 March or the first day thereafter on which the Parliament sits), a provisional expenditure plan.

10. This document, currently known as the Annual Evaluation Report, will set out:
- i) the Executive's views on priorities for the coming Spending Review period;
  - ii) an initial assessment of progress against the key performance targets for each portfolio set in the previous Spending Review; and
  - iii) general expenditure proposals for those forward years for which aggregate figures at programme level are available.

The original intention behind the budget process was in essence that it represented a consultation leading into the annual budget bill – so that the parliamentary scrutiny process would focus on the single financial year covered by that budget bill. In Spending Review years, the budget bill which emerges from the consultation process is that for the first of the three years covered in the review. But as this year will also be the final year covered by the previous Spending Review, and the expectation is that changes to budgets for that year will be limited. The parliamentary scrutiny process then needs to address:

- i) the priorities for spending across the whole three year spending review period (for which no spending plans will be available at this point); and
- ii) the detailed spending plans for the first year only.

## **Stage 2**

11. Standing Orders provide for consideration of draft budgets between the beginning of October and the end of December each year. This process will start with the publication by the Scottish Ministers of detailed expenditure proposals for the next financial year, currently in the *Draft Budget* publication.

12. Normally the Scottish Ministers will present their proposals to the Parliament by 20 September or the first day thereafter on which it sits. In Spending Review years, recent practice has been for the Executive to produce two documents: a spending review outcome document giving level 2 figures, published as close as possible to 20 September; and a more detailed *Draft Budget* document, following as soon as possible thereafter.

13. The timing of these documents is largely driven by the date of the announcement of the UK Spending Review. Where the Executive believes it may not be able to meet the 20 September deadline, the Scottish Ministers will consult the Finance Committee on a revised timescale for that year's budgeting process.

14. Once the Scottish Ministers have submitted their expenditure proposals, the Finance Committee will, in consultation with other committees of the Parliament, produce a report. This will comment on the Scottish Ministers' proposals and may include an alternative set of proposals. The total spend proposed by the Finance Committee will not, however, exceed the total proposed by the Scottish Ministers.

15. During the Stage 2 process, the Committees' scrutiny is likely to focus on two main issues:

- i) the Executive's response to recommendations made by the Committee at the end of Stage 1 (only in Spending Review years); and
- ii) any changes to the detailed plans for the immediate following year

16. Once the Finance Committee has produced its report, a plenary debate will be arranged to consider a motion to be tabled by the Finance Committee. Committees and individual members may seek to propose amendments to the Executive's expenditure proposals through the mechanism of tabling amendments to the Finance Committee motion. No amendment may seek to increase the total spend proposed. Therefore, amendments proposing any change in one area must recommend how this change will be financed. It should be noted that even if such amendments are agreed to, this does not automatically guarantee that expenditure proposals will be amended in the subsequent Budget Bill.

### **Stage 3**

17. The Scottish Ministers will present a Budget Bill by 20 January each year or the first day thereafter on which the Parliament sits. The procedures for Budget Bills are set out in standing orders. When presenting its Budget Bill, the Scottish Ministers undertake also to lay before the Parliament a report which will, amongst other things, set out how it has responded to the proposals voted on by the Parliament during stage 2. This report will also comment on any changes that have been necessitated by financial decisions taken by the UK Government.

18. According to Standing Orders, the Parliament may not vote on the Budget Bill until 20 days have elapsed from the date it was presented. The Parliament must however vote on the Bill within 30 days of its presentation. Wherever possible, the Parliamentary Bureau will timetable a debate on the Budget Bill prior to 14 February. This is in part to give spending bodies as much notice as possible of their spending allocations and in part to ensure that there is sufficient time for the Budget Bill to have received Royal Assent.

19. The format of the Budget Bills and Budget Documents are the subject of a separate agreement.

### **The Parliament's Budget**

20. A mechanism has been established to enable the Parliament to vote on its own budget. The Scottish Ministers are agreed that at stages 1 and 2 of the Budget process, the expenditure proposals should include working assumptions on the Parliamentary budget prepared by the Scottish Parliamentary Corporate Body. Provision for the Parliament to scrutinise its own budget is made in a separate understanding with the Scottish Parliament Corporate Body. Should the Scottish Ministers wish to challenge the budget proposed by the SPCB, they will do so by means of an amendment to the Budget Bill to allow debate on the specific issue.

### **Revisions to this agreement**

21. The Scottish Ministers or the Finance Committee may propose amendments to this agreement. If the Committee and the Scottish Ministers are unable to agree

the changes that are proposed, they may ask the Parliamentary Bureau to arrange a plenary debate on a proposal(s).

## **AGREEMENT ON THE FORMAT OF THE BUDGET DOCUMENTS**

### **Purpose**

1. This document sets out an understanding between the Scottish Ministers and the Scottish Parliament on the format of supporting material that will accompany a Budget Bill "the Budget documents". It is not intended to create any legal rights or obligations on either the Scottish Ministers or the Scottish Parliament.

### **Background**

2. FIAG considered what information should be put before the Parliament to support Budget Bills. The Group recommended that they should cover all expenditure by the Executive which the Parliament has to approve, rather than merely that which involves expenditure from the Scottish Consolidated Fund. The Scottish Ministers undertake to prepare their budget proposal in accordance with this recommendation.

3. FIAG also recommended that each Budget Bill should include expenditure which the Parliament has to approve but is not formally for the Executive to propose - notably expenditure by the Scottish Parliamentary Corporation itself and by Audit Scotland. The Scottish Ministers will give effect to this recommendation.

4. The Scottish Ministers and the Scottish Parliament are agreed that each Budget Bill should contain:

- statements which will set out the purposes for which funding is to be authorised;
- statements of the amounts of funding sought; and
- statements setting out the amount of expected income and its proposed treatment.

### **Revisions to this agreement**

5. The Scottish Ministers or the Finance Committee may propose amendments to this agreement. If the Committee and the Scottish Ministers are unable to agree the changes that are proposed, they may ask the Parliamentary Bureau to arrange a plenary debate on a proposal(s).

## **AGREEMENT ON IN YEAR CHANGES TO EXPENDITURE ALLOCATIONS**

### **Purpose**

1. This document sets out an understanding between the Scottish Ministers and the Scottish Parliament on the administrative arrangements for:

- the reallocation of expenditure within departments of the Scottish Executive;
- procedures for making contingency payments during the year;
- controls on contingent liabilities.

It is not intended to create any legal rights or obligations on either the Scottish Ministers or the Scottish Parliament.

### **In year transfers between departmental budgets**

2. Budget Acts will set out absolute resource expenditure (net of receipts) limits for individual entities. These entities will be the individual departments of the Scottish Executive, Scottish Executive Administration, the General Register Office for Scotland, National Archives of Scotland, the Forestry Commission, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland. The Scottish Ministers will not be able to transfer funds between these limits, including between individual departments of the Scottish Executive, without the prior approval of the Parliament.

### **Reallocation of expenditure within departments of the Scottish Executive**

3. FIAG recommended that the Executive should be allowed to move funds within departmental budgets to respond to changes in need. The Group recommended that transfers should be subject to internal controls. It also recommended that the Parliament should be informed of transfers on a regular basis.

4. FIAG also recommended that the total amount of funds that may be transferred in this way should be limited. The Group recommended that transfers between "budget sections" should be no more than £50 million, (at 1999 values) or 15% of the receiving section, whichever is the lesser. (A "budget section" refers to the level below the department as a whole.) FIAG recommended that transfers within budget sections should be unlimited. This recommendation will be given effect by the Scottish Parliament and the Scottish Ministers in accordance with this understanding.

5. The Scottish Ministers undertake:

- 5.1 Not to move provision from one budget section to another in such a way as to increase the total budget for that section by more than 15%, or £50 million at 1999 values, whichever is the lesser, without seeking the specific approval of the Parliament through the Budget revision procedure.

- 5.2 To inform the Parliament of movements between budget sections that are within these limits at the time such revisions are made.
- 5.3 To inform the Parliament of movements within budget sections in as much as they affect the detail set out in the documents accompanying the Budget Bill (the Budget documents), when seeking Budget revisions.

6. It remains open to the Executive to continue to make use of the flexibilities provided by this agreement and outlined above (the process is technically known as “virement” or “viring between budgets”) after the last budget revision of the year. There is however no vehicle by which changes made at this point can be reported to the Parliament. The Executive will therefore prepare its accounts on the basis that budgets at the end of the year were those contained in the last budget revision, that is, as if no further virement had taken place. The accounts will then show moves between budget heads as offsetting over- and under-spends.

### **Contingency payments**

7. Under the terms of the Public Finance and Accountability (Scotland) Act 2000, the Scottish Ministers have powers, in certain circumstances, to authorise the use of resources up to 0.5% of the total budget in any financial year without the prior authority of the Parliament. A separate limit is currently placed on this power as part of the annual Budget Acts. In the 2005 Act, the limit is set at £50 million (section 4).

The Scottish Ministers can only use this facility if it is necessary to do so in the public interest and if it is not reasonably practicable, for reasons of urgency, to seek prior Parliamentary approval by means of Budget legislation. Unless the circumstances are such that extreme urgency makes it impossible, the Scottish Ministers will lay a report before the Parliament at least 14 calendar days before undertaking any expenditure. Should the requirement to use the power arise during a recess, a report will be presented to the Parliament as soon as Parliament returns from recess.

8. Details of any such contingency payments will appear in the Executive's annual accounts.

### **Contingent liabilities**

9. FIAG recommended that there should be some Parliamentary control over the Scottish Ministers ability to enter into contingent liabilities. In this case, FIAG did not mean that there should be restrictions over abilities to enter into contracts, but that the Scottish Ministers should require the authority of the Parliament before granting a guarantee or indemnity which would, in effect, bind the Parliament into providing the resources in the event of the indemnity maturing unless a guarantee or indemnity is granted under a statutory power to do so, or it is of a standard type and arises as an unavoidable feature of an activity authorised by statute.

10. In accordance with FIAG's recommendation, the Scottish Ministers undertake, before granting any guarantees or indemnities in excess of £1 million (including those without limit), to present their proposals to the Finance Committee. The Finance Committee will in turn consider the proposal within 20 days. The Committee will either approve the proposal or propose an amendment. The Scottish Ministers

will either accept the amendment or notify the Committee that they disagree. It will then be for the Committee to decide to either allow the Scottish Ministers to proceed or to refer the matter to the Parliamentary Bureau for a debate.

### **Revisions to this agreement**

12. The Scottish Ministers or the Finance Committee may propose amendments to this agreement. If the Committee and the Scottish Ministers are unable to agree the changes that are proposed, they may ask the Parliamentary Bureau to arrange a plenary debate on a proposal(s).