POLICE AND FIRE SERVICES (FINANCE) (SCOTLAND) BILL

INTRODUCTION

1. This document relates to the Police and Fire Services (Finance) (Scotland) Bill introduced in the Scottish Parliament on 31 May 2001. It has been prepared by the Scottish Executive to satisfy Rule 9.3.3(c) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Executive and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 29–EN.

POLICY OBJECTIVES OF THE BILL

Carry-forward of working balances by unitary police authorities and joint police boards

2. The first policy objective in this Bill is to amend the Police (Scotland) Act 1967 (“the 1967 Act”) to make provision in relation to police authorities, for carrying forward working balances at the end of each financial year, with the consent of the Scottish Ministers and up to a predetermined limit. “Working balances” are contributions from local authorities and police grant paid by the Scottish Ministers under section 32 of the 1967 Act, which are unspent at the end of the financial year. The Bill achieves the policy objective in two steps. The first is by allowing joint police boards to carry forward unspent monies requisitioned from their constituent authorities. The second is to permit both joint police boards and unitary police authorities to carry forward from one financial year to the next unspent police grant after a re-determination has been made (see paragraph 4 below for an explanation of how police grant is redetermined).

3. The funding of police forces in Scotland is different to that of other local authority services. Each force has a police authority or joint police board with the responsibility for setting force budgets. Under section 32 of the 1967 Act, the Scottish Executive pays a grant of 51 per cent to cover eligible police expenditure up to a cash limit. Joint police boards then requisition the balance from their constituent local authorities in proportion to the cost of providing a police service within their area. In the case of unitary police authorities, the local authority supplies the balance. If police expenditure is such that it exceeds the police grant, the police authority or joint police board must meet the excess in full. Currently, at the end of
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each year any unspent money is returned to the Scottish Executive and to the constituent authorities as appropriate.

4. The mechanism for returning unspent police grant is enshrined in the 1967 Act. By virtue of that Act an order can be made that redetermines the amount of police grant paid to a Board so that it conforms to the actual expenditure. This usually happens after the end of the year in which the grant is paid because the Board’s final outturn is then known. The difference between police grant paid and the redetermined amount is returned to the Scottish Executive.

5. Each local authority is a police authority for its own area. However the bulk of these authorities are grouped into six joint police boards (Central Scotland Joint Police Board, Grampian Joint Police Board, Lothian & Borders Police Board, Northern Joint Police Board, Strathclyde Joint Police Board and Tayside Joint Police Board). In 1996 the six combined police areas were amalgamated into joint police boards by order made by virtue of section 21B of the 1967 Act (as inserted by section 34 of the Local Government etc. (Scotland) Act 1994). The remaining two police authorities (Dumfries & Galloway Council and Fife Council) are known as unitary police authorities, where the force and local authority limits are coterminous and amalgamation orders do not apply.

6. A report – Credit to the Force\(^1\) – prepared jointly by Her Majesty’s Inspectorate of Constabulary (HMIC) and the Accounts Commission for Scotland and published in November 1998 recommended, amongst other things, that police forces should be allowed to carry forward working balances at the end of each financial year.

7. At present the police face something of a quandary. On the one hand, as an emergency service, they have to keep in hand sufficient reserves to enable them to meet unusual demands. However, forces tend to want to ensure that budgets are spent as wisely as possible and do not wish to rush to spend money at the end of the year. Given those pressures, the Accounts Commission and HMIC proposed allowing forces to carry forward working balances. It was suggested that any carry-forward might be limited to a maximum of 3per cent of a force’s police grant and local authority income. Joint police boards and unitary police authorities will be permitted to accumulate reserves to help them meet future demands that could not easily be met from a single year’s police grant and requisitions. The recent Millennium celebrations are an example of a foreseeable pressure for which joint police boards could have made financial preparations had they been allowed to accumulate the necessary reserves.

8. The proposal, therefore, is to amend the 1967 Act to allow joint police boards and unitary police authorities to carry forward working balances on the terms set out below:

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- to allow joint police boards and unitary police authorities to carry forward working balances at the year end;

- to make the carry-forward of requisitioned money subject to the consent of the police authority itself, which may elect to carry forward all or some (or none) of the available money subject to an upper limit;

- to make the carry-forward of police grant, and of requisitioned money, subject to the approval of the Scottish Ministers;

- an upper limit to be set (currently to be 3 per cent of a force’s police grant and local authority requisitions for a particular year) but to be capable of being varied by a statutory instrument subject to negative resolution. The limit may be changed by varying the percentage limit to another percentage value; and

- to allow carry-forwards to accumulate year on year without limit.

9. The two unitary police authorities are not covered by this legislation insofar as it relates to the carry-forward of unspent requisitions. This is because unitary police authorities do not have constituent authorities in the way that a joint police board has. They are therefore integrated with their local authority and there is no need to legislate to carry forward unspent money. Local authorities have “general funds” (see section 93 of the Local Government (Scotland) Act 1973 (“the 1973 Act”)) and the carry-forward of working balances from these general funds is not precluded. (The provisions on general funds are also applied to joint police boards by virtue of section 106 of the 1973 Act but it is effectively the provisions in section 19 of the 1967 Act which precludes the carry-forward of unspent requisitions by joint police boards).

10. Although unitary police authorities could use their “general funds” to carry forward unspent police grant, a re-determination of that grant (see paragraph 4 above) would require the repayment of any unspent grant. The intention is that any re-determinations will not require the return of unspent police grant that unitary police authorities wish to carry forward. As unitary police authorities use a “general fund” that includes other local authority services it is important to ensure that any carried forward amounts are subsequently spent on police purposes; this is particularly true of police grant, which is solely for the purpose of meeting eligible police expenditure. Unitary authorities that wish to carry forward working balances will therefore need to have in place administrative mechanisms that show that any carried forward amount is spent only on eligible police expenditure. Such administrative mechanisms will need to have the approval of the Scottish Executive.

Carry-forward of working balances by joint fire boards

11. The eight fire brigades in Scotland cover the same areas, or combined areas, as the eight police forces, and are similarly administered by unitary authorities in two cases
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(Dumfries and Galloway, and Fife) and by joint boards in the other six cases (Central Scotland, Grampian, Highland and Islands, Lothian and Borders, Strathclyde and Tayside).

12. Although the recommendation made by the Accounts Commission and HMIC related only to police forces, it is self-evident that the ability to exercise a more flexible approach to longer term budgeting would be of equal benefit to fire brigades. The second policy objective in this Bill is, accordingly, to amend the Fire Services Act 1947 so as to make provision in relation to joint fire boards for carrying forward working balances at the end of each financial year, subject to the same limitation and consent requirements as are proposed to apply in the case of joint police boards.

13. The only significant difference is that the funding of fire services involves no substantial direct grant comparable to the 51 per cent grant paid by the Scottish Executive in respect of eligible police expenditure, and no provision therefore needs to be made for unitary fire authorities or fire boards in respect of such grant.

ALTERNATIVE APPROACHES

14. The alternative to allowing unitary police authorities, joint police boards and joint fire boards to carry forward working balances is to do nothing. Under those circumstances the existing arrangements would continue and the recommendation by the Accounts Commission and HMIC in respect of police forces would not be implemented. Police forces and fire brigades would not be able to make optimal use of their financial resources. Consequently there may be unnecessary inefficiencies and the possibility of a rush to spend at the end of the year rather than the more careful longer term planning of expenditure which the ability to carry forward working balances will encourage. At a time when police and fire resources are having to meet a number of demands, it is sensible to make the financial regime under which forces and brigades operate as flexible as possible.

CONSULTATION

Carry-forward of working balances by unitary police authorities and joint police boards

15. Following the publication of Credit to the Force the Association of Chief Police Officers in Scotland (ACPOS) expressed support for the recommendation. The Scottish Executive consulted the Convention of Scottish Local Authorities (COSLA) who were content with the proposals given that discretion would lie with unitary police authorities, joint police boards and constituent authorities as to whether to use the facility. The Police Advisory Board for Scotland (PABS) has also discussed the proposal and no objections have been raised. HMIC and the Accounts Commission are in favour of the proposal given that it was their report that raised the issue.
Carry-forward of working balances by joint fire boards

16. The proposal that the Bill should also make provision with regard to joint fire boards has been raised with COSLA, the Accounts Commission, the Chief and Assistant Chief Fire Officers Association and HM Inspectorate of Fire Services for Scotland. There have been no objections.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.

17. There will be no effect upon equal opportunities, human rights, island communities, local government or sustainable development.
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POLICY MEMORANDUM

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