THE BUDGET PROCESS
SESSION 4 AGREEMENT BETWEEN
THE SCOTTISH GOVERNMENT AND THE FINANCE COMMITTEE (REVISED VERSION – APRIL 2015)

Introduction

1. The Finance Committee recommended in its legacy paper at the end of Session 3 that the Written Agreement be reviewed and redrafted to incorporate a number of changes to the budget process which have been implemented since the document was last reviewed in 2005.

2. This revised document sets out an understanding between the Finance Committee and the Scottish Government on the administrative arrangements for the scrutiny of the annual draft budget during Session 4 and other related budgetary matters.

3. There are three phases in the budget process. The Draft Budget Scrutiny Phase and the Budget Bill Phase take place on an annual basis, and the Budget Strategy Phase (BSP) takes place once during the parliamentary session.

Scotland Act 2012

4. The additional financial powers arising from the Scotland Act result in a number of changes to the budget process. The key changes have been incorporated in this version of the Agreement. It is intended that this Agreement will be reviewed and updated as the new powers are implemented and where experience indicates that refinements to the process would be of benefit.

5. It is also intended that this Agreement will be reviewed at the end of the session.

Budget Strategy Phase

6. Following a review of the budget process\(^1\) in Session 3 the Committee agreed to introduce a strategic phase to the process which replaces the previous Stage 1 which had not been carried out since 2004. The Scottish Government supports this approach and this section of the Written Agreement sets out the procedure and supporting documentation for the BSP in Session 4.

7. The Committee and the Scottish Government have agreed that the BSP will take place once in each parliamentary session and is intended to allow the Parliament to scrutinise the progress which the Scottish Government is making in delivering its own targets through its spending priorities and to take a strategic overview of the public finances.

8. To assist with this process the Scottish Government has agreed to consider in consultation with the Finance Committee the options for provision to the Parliament of an assessment of its performance and its updated indicative spending priorities.

9. The parliamentary committees will then have the opportunity to both scrutinise the Scottish Government’s performance and its spending priorities and will report to the Finance Committee in sufficient time to allow a report on the BSP to be published prior to Summer recess and for that report to be debated by the Parliament. It is expected that the outcome of this process will then inform the scrutiny of the next Scottish Government Spending Review.

**Draft Budget Scrutiny Phase**

10. The Scottish Government will continue to publish a draft budget by 20 September at the latest but will endeavour to publish as early as possible in September in non-Spending Review years on the basis that the amount of money that is available to the Scottish Government is primarily fixed and known.

11. In Spending Review years, the Scottish Spending Review and the Draft Budget should be published as one document by 20 September.

12. Where the Scottish Government believes that 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.

13. The Finance Committee’s report on the Draft Budget may include an alternative set of tax and spending proposals. The report may also include recommendations on the Scottish Ministers’ tax proposals. Any revised spending proposals may not exceed the total proposed by Scottish Ministers unless there is a proposal for a commensurate increase in the level of Scottish taxes. Any recommendation to increase the level of taxes should include how the additional funding should be allocated. Any recommendation to decrease the level of taxes should include how the reduction is to be balanced by a reduction in the total spending proposed by the Scottish Ministers. The report will be debated by the Parliament on a motion from the Finance Committee prior to Christmas recess.

14. Committees and individual Members may seek to propose amendments to the SG’s expenditure and tax proposals by tabling amendments to the Finance Committee motion. No amendment may seek to increase the total spend proposed unless it includes a proposal for a commensurate increase in the level of Scottish taxes. Any recommendation to increase the level of taxes should include how the additional funding should be allocated. Any recommendation to decrease the level of taxes should include how the reduction is to be balanced by a reduction in the total spending proposed by the Scottish Ministers. Therefore, amendments
proposing any increase in one area must recommend how this increase will be financed including from an increase in the level of Scottish taxes. It should be noted that even if such amendments are agreed to, this does not automatically guarantee that expenditure or tax proposals will be amended in the subsequent Budget Bill.

15. While the Parliament will be able to make recommendations in relation to the devolved tax proposals, proposing tax rates and thresholds will be a matter for Scottish Ministers. The Parliament will be asked whether or not to approve the tax rates through the legislative process but will not have the opportunity to amend the rates. This is consistent with Rule 9.16.6 of the Parliament’s Standing Orders.

16. While the Parliament will be able to make recommendations in relation to the Scottish Rate of Income Tax (SRIT), only Scottish Ministers may move a motion for a Scottish rate resolution. Such a motion may not be amended.

Preventative Spending

17. Both the Scottish Government and the Finance Committee recognise the need to move towards a greater emphasis on a preventative approach to public spending. The Finance Committee aims to ensure that the scrutiny of preventative spending is integral to the annual budget process and the Scottish Government agrees to include an overall assessment in the Draft Budget of the progress that is being made towards a more preventative approach.

Level 4 information

18. The Scottish Government agrees that while there is no formal definition of “level 4” information there is nevertheless a presumption for information below “level 3” to be released. Subject committees are encouraged to request information from relevant portfolio areas who will endeavour to provide the following information where possible:

- In presenting ‘level 4 figures’ the Scottish Government will provide figures separately for all spending programmes that are distinctive, novel, or likely to be of parliamentary interest. Whilst there is no maximum value for level 4 figures, wherever possible the Scottish Government will aim to break down figures to the smallest reasonable level;
- The Scottish Government will provide figures for the funding being provided to each of Scotland’s public bodies as listed on the Scottish Government website;
- As with level 3 figures the Scottish Government will include an explanation of ‘what the money buys’;
- The Scottish Government will identify and explain changes to budget headings from the previous draft budget;
- If the Scottish Government cannot provide the information to a Committee within the requested period, the Scottish Government will write to the Committee explaining why and provide a timetable for receipt.
**Scotland Act 2012**

**SRIT**

19. In respect of SRIT, the Draft Budget will include a commentary on the expected income, including tax receipt forecasts and the assumptions, rates and thresholds on which they are based.

**Devolved Taxes**

20. In respect of the two devolved taxes, the Draft Budget will include a commentary on the expected income, including tax receipt forecasts and the assumptions, rates and thresholds on which they are based.

**Scottish Fiscal Commission (SFC)**

21. The commentary will also reflect the views of the Scottish Fiscal Commission on the level of receipts. To aid scrutiny of the Scottish Ministers’ proposals, the Commission will also publish separately its views on the forecast position (the precise arrangements for this will be a matter for the Commission once established, in discussion with the Scottish Government and the Scottish Parliament, and may be varied by agreement). Once information on actual receipts is available, the Draft Budget will also include a commentary on outturn figures for the devolved taxes for the most recent year, including any variance between outturn and forecasts.

22. It is not intended that the estimates, published as part of the Draft Budget, will constrain Ministerial discretion to adjust proposed tax rates and thresholds prior to asking the Scottish Parliament to approve the relevant subordinate legislation and Scottish Rate resolution. The estimates will provide context for the decisions set out in the Draft Budget and inform debate during the Autumn budget scrutiny process.

23. The Scottish Parliament’s role is set out at paragraphs 14 to 15. The power to move a motion for a Scottish rate resolution and to bring forward legislative proposals to set tax rates and thresholds for the devolved taxes will be reserved to Scottish Ministers.

**Borrowing Powers**

24. The Scottish Government will provide details of any planned borrowing under the Scotland Act powers as part of the Draft Budget publication. Details should include the amounts to be borrowed, and a commentary explaining the use of the powers.

**Block Grant Adjustment**

25. The Scottish Government will ensure that the Finance Committee is kept informed of progress on any agreement, or change to existing agreement, with the UK Government on adjustments to the block grant arising from the devolution of further powers. Wherever possible, the Scottish Government will consult with the Finance Committee prior to final agreement being reached, and where for any reason consultation is not possible, the Scottish Government will as soon as possible
write to the Committee providing reasons for not consulting and setting out how the adjustments and any changes to them were calculated. The Scottish Government will aim to provide this information prior to the publication of the Draft Budget, to support budget scrutiny.

**Budget Bill Phase**

26. The Scottish Government will introduce 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.

27. The Scottish Government has agreed that it will respond to the recommendations of the Finance Committee report on the Draft Budget during the Stage 1 debate and that a written response will be published prior to the Stage 3 debate.

28. The Scottish Government will also comment on any changes that have been necessitated by financial decisions taken by the UK Government since the publication of the Draft Budget during the Stage 1 debate.

**The Parliament's Budget**

29. The Scottish Government draft budget includes working assumptions on the parliamentary budget prepared by the SPCB. Should the Scottish Government wish to challenge the budget proposal by the SPCB, they will do so by means of an amendment to the Budget Bill. Provision for the Parliament to scrutinise its own budget is made in a separate understanding with the SPCB.

**Revisions to this agreement**

30. 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 Government and the Scottish Parliament on the administrative arrangements for:

   - the reallocation of expenditure within portfolios of the Scottish Government;
   - 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 Government or the Scottish Parliament.

In year transfers between portfolio budgets

2. The previous agreement said that Budget Acts were to set out absolute resource expenditure (net of receipts) limits for individual entities. These entities were 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 and the Finance Committee are agreed that in future Budget Acts a single Scottish Government budget figure will be provided for net expenditure and total income limit. Separate budget approvals will still be required for the Forestry Commission, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland.

3. The Scottish Government will continue to set, manage and report budgets against individual totals at Portfolio level, which will be agreed by the Parliament through the Budget Bill, as well as through the Budget Revisions. In accordance with the previous agreement, Scottish Ministers will still not be able to transfer funds between these limits, including between individual portfolios of the Scottish Executive, without the approval of the Parliament.

Reallocation of expenditure within departments of the Scottish Government

4. FIAG recommended that the Executive should be allowed to move funds within portfolio 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.

5. 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 portfolio 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.

6. The Scottish Government undertake:

- 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 £70 million at 2011 values, whichever is the lesser, without seeking the specific approval of the Parliament through the Budget revision procedure.

- To inform the Parliament of movements between budget sections that are within these limits at the time Budget revisions are made.

- 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.

7. It remains open to the Scottish Government 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 Scottish Government 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-spend.

**Contingency payments**

8. Under the terms of the Public Finance and Accountability (Scotland) Act 2000, the Scottish Government 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 of £50 million is currently placed on this power as part of the annual Budget Acts.

9. The Scottish Government 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 Government 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.

10. Details of any such contingency payments will appear in the Scottish Government’s annual accounts.
Contingent liabilities

11. FIAG recommended that the authority of the Parliament is required before the Scottish Government can grant a guarantee or indemnity which would, in effect, bind the Parliament into providing the expenditure in the event of the guarantee or indemnity maturing. This does not apply to a guarantee or indemnity which is granted under a statutory requirement to do so or is of a standard type and arises as an unavoidable feature of an activity authorised by statute.

12. In accordance with FIAG’s recommendation, the Scottish Government undertake, before granting any guarantees or indemnities in excess of £1 million (including those without limit), to submit their proposals to the Finance Committee. The Scottish Government agrees to provide the Committee with as early notice of the contingent liability as practically possible so as to allow sufficient time for effective scrutiny.

13. The Committee agrees to consider each contingent liability at the earliest opportunity and will take evidence from the appropriate Minister before deciding whether to approve the proposal or to propose an amendment or recommend that the proposal is rejected. If the Scottish Government does not agree with the Committee’s recommendation then the Committee following further information from the Scottish Government may either allow the Scottish Government to proceed or refer the matter to the Parliamentary Bureau for debate. It will then be for the Parliament to agree whether or not to allow the Scottish Government to proceed.

14. Where the Scottish Government requests that a contingent liability should be considered by the Committee in private session it will provide a full explanation for the reasons for this request when submitting its proposal. In doing so the Scottish Government recognises that the Committee will only agree to take evidence in private in exceptional circumstances.

15. Where there is agreement to consider a contingent liability in private both the Finance Committee and the Scottish Government agree not to make public any of the details discussed during the private session. The Scottish Government will also agree with the Finance Committee what information can be made public in relation to the contingent liability itself.

Revisions to this agreement

16. 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).