

Legislative Consent Memorandum

Finance (No. 2) Bill

Background

1. This memorandum has been lodged by Shona Robison MSP, Cabinet Secretary for Finance and Local Government, in accordance with Rule 9B.3.1(a) of the Parliament's Standing Orders.

2. The Finance (No. 2) Bill was introduced by the UK Government in the House of Commons on 2 December 2025. The Bill is available on the UK Parliament website via this link: [Finance \(No. 2\) Bill - Parliamentary Bills - UK Parliament](#).

Content of the Bill

3. A new Finance Bill is usually presented to the UK Parliament each year. It enacts the proposals for taxation made by the Chancellor of the Exchequer in the UK Budget statement and brings them into law. The Finance (No. 2) Bill brings into law the proposals announced in the Budget on 26 November 2025. There are over 100 resolutions made as part of the UK Budget that make changes across a wide range of taxes including income tax, corporation tax, VAT, duties on alcohol and tobacco products, vehicle excise duties, landfill tax and aggregates levy.

4. In particular, the Bill contains provisions to allow the Scottish Parliament the ability to set separate rates of income tax for income from property from April 2027.

Provisions which require the consent of the Scottish Parliament

5. The Scottish Government is of the opinion that legislative consent is required in respect of the following clause and schedules so far as these matters pursue a devolved purpose and alter the executive competence of the Scottish Ministers:

- Schedule 2 – Scottish and Welsh property income rates, Part 1 – Scotland; and
- Clause 8: Scottish and Welsh property rates set by Scottish Parliament and Senedd, where it applies to Part 1 of Schedule 2.

6. The UK Government agrees that Part 1 of Schedule 2 and Clause 8 (where it applies to Part 1 of Schedule 2) require the consent of the Scottish Parliament in terms of section 28(8) of the Scotland Act 1998.

7. Clause 8 and Part 1 of Schedule 2 make provision for Scottish and Welsh property rates to be set by the Scottish Parliament and the Senedd. The clause and schedule do not come into force until a day appointed by HM Treasury regulations. At that point, new subsection 80C(2B) will be substituted as follows:

In section 80C of the Scotland Act 1998 (power to set Scottish rates for Scottish taxpayers), for subsection (2B) (which prevents a Scottish rate resolution from applying different rates in relation to different types of income), as substituted by paragraph 55 of Schedule 1, substitute—

“(2B) A Scottish rate resolution—

(a) may provide for the rates applicable in relation to property income to be different from the rates applicable in relation to other income, but

(b) may not provide for different rates to apply in relation to different types of other income.

(2BA) But Scottish rates applicable in relation to property income must set the same limits or make the same other provision enabling those rates to be ascertained as are set or made in relation to rates applicable in relation to income other than property income.”

8. The Scottish Government recommends that the Scottish Parliament consent to these provisions under section 28(8) of the Scotland Act 1998. This is on the basis that the provisions make a significant change to the devolved power to set the rates and bands of Scottish Income Tax. They thereby alter the executive competence of the Scottish Ministers in terms of the resolution that they are empowered to lay before the Scottish Parliament under section 80C(8) of the 1998 Act.

Reasons for recommending legislative consent

9. From April 2027, the UK Government plans to split out income tax paid on property income from “non-savings, non-dividend” (NSND) rates.

10. In Scotland, property income is currently subject to Scottish Income Tax (SIT) as part of NSND income, and the Scottish Parliament does not currently have the powers to vary the rates for property income separately.

11. The UK Government proposes to amend the Scotland Act 1998 in order to allow the Scottish Parliament to set a separate rate for property income tax in Scotland, to give Scotland the same flexibility as it is taking for itself.

12. The Scottish Government recommends that the Parliament consents to these provisions, as the proposal creates a significant new power for the Scottish Parliament to set a new category of income tax rates and this will in turn alter the executive competence of the Scottish Ministers in terms of their power to lay a Scottish Rate Resolution under section 80C(8) of the Scotland Act 1998.

Consultation

13. There has been no consultation on this.

Financial implications

14. There are no immediate financial implications to the devolution of this power.

15. Use of this power from April 2027 will be subject to the usual budgetary processes, including the passing of a Scottish Rate Resolution by the Scottish Parliament.

Other relevant considerations

16. In the UK Budget statement, the Chancellor announced her intention to apply a 2 percentage point increase to the basic, higher and additional rates of property income tax in the rest of the UK. This creates a financial risk to the Scottish Budget from April 2027, as the UK increasing rates as intended in 2027 would increase the Block Grant Adjustment by an estimated £25 million. The use of the additional flexibility over the way income tax rates on property income in Scotland are set will be a matter for a future Scottish Parliament, but it could potentially be used to mitigate the BGA increase.

17. UK Finance Bills are not subject to the same procedures as other UK Government Bills, in that there is no amending stage in the House of Lords. Therefore, the last amending stage will be at the Report Stage in the House of Commons. The Report Stage is expected to take place in February, but this has not been confirmed. This means that ideally the Parliament should aim to complete its scrutiny by the end of January if possible.

Post EU scrutiny

18. This legislation is not relevant to the Scottish Government's policy to maintain alignment with the EU because it does not substantially change the existing operation of the tax system.

Conclusion

19. It is the considered view of the Scottish Government that, in the context of the UK Government's policy to separate out the way that income from property is taxed in the rest of the UK, it is reasonable to devolve a similar additional flexibility to Scotland. Therefore, the Scottish Government recommends that the Scottish Parliament consent to the relevant provisions in the Finance (No. 2) Bill.

Draft motion on legislative consent

20. The draft motion, which will be lodged by the Cabinet Secretary for Finance and Local Government, is:

“That the Parliament agrees that the relevant provisions of the Finance (No. 2) Bill, introduced in the House of Commons on the 2 December 2025, relating to clause 8 (Scottish and Welsh property rates set by Scottish Parliament and Senedd) and Schedule 2, Part 1 (Scotland), so far as these matters pursue a devolved purpose and alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Scottish Government
January 2026

This Legislative Consent Memorandum relates to the Finance (No. 2) Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 7 January 2026

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