MEMORANDUM

INTERNATIONAL DEVELOPMENT BILL

Background

1. The International Development Bill was introduced in the House of Commons on 15 February and its second reading is scheduled for 6 March. The main purpose of the Bill is to establish in legislation the reduction of poverty as the central aim of the United Kingdom international development assistance. The Bill thus reflects the policies set out in the 1997 White Paper on International Development, "*Eliminating World Poverty – A Challenge for the 21st Century*" and the 2000 White Paper on International Development, "*Eliminating World Poverty: Making Globalisation Work for the Poor*"

Content of the Bill

2. The major proposals in the Bill are new powers for the Secretary of State for International Development to support civil society organisations undertaking development awareness and advocacy activities, and the repeal and replacement of the 1980 Overseas Development and Co-operation Act (ODCA) which lays down the purpose of international development assistance by the Secretary of State as,

"promoting the development or maintaining the economy of a country or territory outside the United Kingdom, or the welfare of its people..."

This definition no longer fits with the UK Government's view of the aim of international development assistance, or with the views of international development organisations.

Proposal

3. The Bill deals almost entirely with reserved matters. However, there are four elements of the Bill for which the Scottish Parliament's consent will be required:

- to include provisions in the Bill to require that Scottish Ministers' consent is needed for Scottish statutory bodies (including cross-border and "mixed function" – i.e. reserved and devolved – bodies) to provide international development assistance;
- to include provisions in the Bill to enable Scottish Ministers to add or delete Scottish statutory bodies from the list of bodies which can undertake international development assistance;
- to amend the Police (Scotland) Act 1967 to regulate the terms and conditions of service of Scottish police officers, while away from their normal force, carrying out international development assistance on behalf of the Secretary of State for International Development; and
- to the amendment of the Police Pensions Act 1976 to ensure that Pension Regulations, currently made by the Scottish Ministers, may include provision in respect of Scottish police officers carrying out international development assistance on behalf of the Secretary of State for International Development.

Dual consent for Scottish statutory bodies to undertake international development work

4. The International Development Bill provides for a consent mechanism which would apply to any statutory body seeking to undertake a specific international development project. The consent of the Secretary of State for International Development would be required in all cases. Where the body concerned was either a Scottish statutory body or a body with mixed functions in Scotland, this consent could only be given with the approval of Scottish Ministers. Dual consent ensures that Scottish Ministers can prevent Scottish bodies from undertaking international development work at the expense of their domestic business.

Power for Scottish Ministers to add and delete Scottish statutory bodies

5. The International Development Bill confers an exclusive power on Scottish Ministers to add or delete Scottish statutory bodies from the list at Schedule 2 of bodies which may enter into agreements to provide international development assistance. Where a statutory body is cross-border, or has functions in both reserved and devolved areas, dual consent from both Scottish Ministers and the Secretary of State for International Development would be required to add or delete that body from the list. Again, this mechanism ensures that Scottish Ministers can prevent Scottish bodies from undertaking international development work at the expense of their domestic business.

Amendment to the Police (Scotland) Act 1967

6. The International Development Bill proposes an amendment to Section 97 of the Police Act 1996 which applies in England and Wales, and Section 38A of the Police (Scotland) Act 1967. This amendment provides for service in connection with the provision by the Secretary of State of assistance under the International Development Act 2001.

7. With the exception of matters relating to firearms and national security, responsibility for the police in Scotland has been devolved to the Scottish Parliament. Section 38A of the Police (Scotland) Act 1967 makes certain provisions regulating terms and conditions of police officers whilst engaged on relevant service away from their normal force. Section 38A was inserted by Section 60 of the Police and Magistrates' Courts Act 1994 and subsequently amended by paragraph 14 of schedule 9 of the Police Act 1997.

8. Police officers may be appointed to public service posts overseas in order to provide assistance to international organisations or other bodies carrying out policing functions. The initial request for assistance from a foreign government or police force, an international organisation or any other appropriate body is usually channelled through the Foreign and Commonwealth Office, the Department for International Development or the British Council. Such appointments are authorised by Scottish Ministers. This ensures that the officer concerned is then treated in broadly the same way as if he was away from his force on a period of central service. It guarantees that officers who travel overseas will be in receipt of their full pay, allowances and pension entitlement as if they were serving in the UK.

Amendment to the Police Pensions Act 1976

9. The functions of the Secretary of State under sections 1 to 8A of the Police Pensions Act 1976 ("the 1976 Act") have been executively devolved to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers Etc.) Order 1999 (S.I. No 1999 1750). The proposed amendments to sections 7 and 11 of the 1976 Act ensure that the phrase "member of a police force" etc. in Section 1 translates so as to include service as an officer pursuant to an appointment in connection with the provision by the Secretary of State of assistance under the International Development Act 2001. This means that Scottish Ministers will continue to make the Pension Regulations in respect of these officers. Further, the amendments will ensure that the Regulations can provide that contributions can be paid into the Scottish Consolidated Fund and pensions can be paid out of monies provided by the Scottish Parliament in relation to those officers.

Rationale for Consideration by the UK Parliament

10. As set out at paragraph 4, the role of Scottish Ministers in international development is limited to "assisting Ministers of the Crown in relation to [international development assistance]", and almost all of the International Development Bill relates to reserved issues. The four elements outlined above which impact on Scottish Ministers' competence are consequential on the new, reserved power set out in the International Development Bill for the Secretary of State for International Development to encourage civil society bodies to undertake international development activity. The Executive believes it is important that, in the light of these new powers, Scottish Ministers should have an appropriate role in relation to Scottish bodies undertaking international development activities, and that appropriate arrangements should be made to safeguard the conditions of service of Scottish police officers undertaking international development activity on behalf of the Secretary of State. The Executive believes that these four elements do not stand alone and are best considered as part of the International Development Bill by the UK Parliament.

SCOTTISH EXECUTIVE
March 2001

INTERNATIONAL DEVELOPMENT BILL

MOTION

That the Parliament endorses the principles included in the International Development Bill that Scottish Ministers' consent be required before Scottish statutory bodies undertake international development activity; that Scottish Ministers can add or delete Scottish bodies from the list of those which can undertake such activity; and that Scottish Police Officers who undertake international development activity abroad continue to enjoy the same conditions of service as in the UK, and agrees that the relevant provisions to achieve these ends in the Bill should be considered by the UK Parliament.