

Finance (No. 3) Bill

HL Bill 154 of 2017–19

This briefing provides summary information on the [Finance \(No. 3\) Bill](#) in advance of its second reading and remaining stages, due to take place in the House of Lords on 7 February 2019. It also identifies relevant reports and useful documents, including parliamentary materials and press articles, which may be of assistance to Members in preparing for that debate.

Introduction and Background

The Finance (No. 3) Bill is a government bill intended to give lasting statutory effect to the tax measures announced in the 2018 budget.¹ It completed its stages in the House of Commons on 8 January 2019. The bill was introduced in the House of Lords on 9 January 2019 and is due to have its second reading on 7 February 2019.

The bill falls within the category known formally as “bills of aids and supplies”, in which “aids” refers to taxation and “supplies” refers to government expenditure.² The House of Commons has a special role in such bills, known as “financial privilege”.³ This means, in practice, that only the Commons can initiate such bills and Lords consideration is limited. In particular, the House of Lords may not amend such bills. While the Lords will have a debate at second reading, later stages will go through formally, without debate.⁴

Although the budget deals with public spending as well as taxation, the procedure by which Parliament scrutinises and approves government expenditure is separate and is not discussed in this briefing.⁵

2018 Budget and Parliamentary Debates

The budget was presented to the House of Commons by Phillip Hammond, the Chancellor of the Exchequer, on 29 October 2018.⁶ The subsequent debates on the budget took place over four days in the House of Commons (29 October 2018 to 1 November 2018) and in the House of Lords on 13 November 2018.⁷

This briefing does not summarise the contents of the budget itself, as these were covered by an earlier Library briefing.⁸ A copy of that briefing is amongst the information identified in the key information, below.

Consideration of the Bill in the House of Commons

The second reading debate in the House of Commons took place on 12 November 2018.⁹ As is customary, selected clauses were then debated in a committee of the whole House, before more detailed scrutiny of the remaining clauses took place in a public bill committee.¹⁰ Amendments agreed at committee stage included a government amendment bringing forward the date of implementation of the £2 stake limit on fixed odds betting terminals.¹¹ Other amendments introduced requirements for reviews of the public health effects of the provisions relating to remote gaming duty, and of the impact and effectiveness of the bill’s tax avoidance provisions.

At report stage on 8 January 2019, an amendment, tabled by Yvette Cooper (Labour MP for Normanton, Pontefract and Castleford), and supported by a cross-party group of MPs, was agreed. It affected clause 89 of the bill, which would allow the Government to make certain changes to tax law in the event of a 'no-deal' Brexit. The bill's explanatory notes described the clause before it was amended as follows:

This clause allows the government to make minor amendments, for example to EU references, within tax law to keep tax law working in the same way as it does now if the UK leaves the EU without a deal. The clause provides for technical changes to an existing power which permits the government to bring international tax agreements into effect in UK law. The clause also removes references to EU legislation when HM Revenue and Customs are considering whether, and the extent to which, a taxpayer is unjustly enriched by repayment of Insurance Premium Tax, Landfill Tax or Excise Duty.¹²

Yvette Cooper's amendment does not mean that the UK cannot leave EU without a deal. Rather, it means that the no-deal powers set out in clause 89 of the bill could only be used if one of three conditions are met. These conditions are:

- first, that the Government receives explicit agreement to a no-deal Brexit from the House of Commons;
- second, that the Government has requested an extension of the negotiating period; or
- third, that the House of Commons approves a withdrawal agreement.¹³

Speaking to the amendment, one of its supporters, Oliver Letwin (Conservative MP for West Dorset), argued that its significance was not so much the effect it had on the Finance Bill, but that approving it would show there was a majority in the Commons against a no-deal Brexit. He said:

It is most extraordinarily important to make it clear to the Government that it is not just this amendment. It is the precedent that this amendment sets, which is that on any power taken in any bill in relation to the exit of the UK from the EU, if there is a majority in the House today and there continues to be majority against no deal, it will be possible to bring forward similar amendments. It is my proposal that we should indeed do that. I want to make it abundantly clear to those of my hon. Friends who are thinking of voting against the Prime Minister's deal, which I shall be supporting, that the majority in this House, if it is expressed tonight, will sustain itself, and we will not allow a no-deal exit to occur at the end of March.¹⁴

The amendment was opposed by the Government. In doing so Robert Jenrick, Exchequer Secretary to the Treasury, said that the changes "envisioned" under clause 89 would be "the most minor and technical". He said that the Government "do not want or expect a no-deal scenario", but that "clause 89 is simply prudent preparation to provide our taxpayers with the certainty they deserve".¹⁵ However, the amendment was approved by the House by 303 votes to 296.¹⁶ Government sources were quoted following the vote as saying that the effect of the amendment would be an "inconvenience" rather than a "disaster".¹⁷

No further changes were made to the bill at third reading, which also took place on 8 January 2018.

Committee Inquiries

The House of Lords Economic Affairs Finance Bill Sub-Committee has produced two reports on issues

covered by the bill: [Making Tax Digital for VAT: Treating Small Businesses Fairly](#) (22 November 2018, HL Paper 229 of session 2017–19); and [The Powers of HMRC: Treating Taxpayers Fairly](#) (4 December 2018, HL Paper 242 of session 2017–19).

The first report, *Making Tax Digital*, addressed the Government’s proposals for the digitalisation of tax administration. The bulk of these measures were introduced as part of the Finance (No. 2) Act which accompanied the 2017 budget.¹⁸ While the committee was supportive of the principle of digitalisation, it was critical of the implementation and transitional arrangements, and in particular the burdens on small businesses. It called for a delay in the introduction of the proposals. The remaining measures were originally contained in the draft of the present bill, but, in the November 2018 budget, the Government announced that they would be postponed until the 2019–20 Finance Bill.¹⁹

The second report, *Treating Taxpayers Fairly*, considered “the development of HM Revenue and Customs’ powers to collect tax, acquired through successive Finance Acts”, including proposed new powers contained in the present bill.²⁰ It called for “clearer distinctions in the Government’s approach and rhetoric towards tax avoidance”, distinguishing more carefully between, for example, “deliberate and contrived tax avoidance by sophisticated, high income individuals, and uninformed or naïve decisions by unrepresented taxpayers”.²¹

As usual, the House of Commons Treasury Committee is also conducting an inquiry into the 2018 budget. At the time of writing, this has not been published, although the evidence taken (including sessions with the Chancellor of the Exchequer and the chairman of the Office for Budget Responsibility) can be accessed on the committee’s webpage.²²

Key Documents

Copies of the materials are available for collection from the Library.

- [Statement by the Chancellor of the Exchequer, Philip Hammond, on the ‘Financial Statement’](#), HC Hansard, 29 October 2018, cols 653–69; and [Debate on ‘Budget Resolutions’](#), HC Hansard, 29 October 2018, cols 670–5

Budget statement and the reply from the Leader of the Opposition, Jeremy Corbyn.

- HM Treasury, [Budget 2018](#), 29 October 2018, HC 1629 of session 2017–19, pp 1–5

HM Treasury’s executive summary of the budget.

- House of Lords Library, [Budget 2018](#), 7 November 2018

Briefing summarising the main points of the budget, and of the associated economic commentary and forecasts from the Office for Budget Responsibility. It also describes the interactions between the budget and the form of Brexit deal (or no deal). It includes summaries of responses to the budget from opposition parties and from a selection of commentators and analysts.

- House of Commons Library, [‘2018 Budget and Finance \(No. 3\) Bill 2017–19’](#), 24 December 2018

Commons briefing on the Finance (No. 3) Bill, setting out a brief background, the main issues discussed and amendments made at Commons committee stage. Also highlights key associated papers.

Further Information

- Office for Budget Responsibility, [Economic and Fiscal Outlook](#), October 2018, Cm 9713
- Institute for Fiscal Studies, '[Autumn Budget 2018](#)', 29 October 2018
- House of Commons Treasury Committee, '[Budget 2018 Inquiry—Publications](#)', accessed 17 January 2019
- House of Commons Library, [The Budget and the Annual Finance Bill](#), 5 November 2018
- [Second Reading Debate on 'Finance \(No. 3\) Bill](#)', HC Hansard, 12 November 2018, cols 54–146

¹ Some measures announced in the budget, such as changes in the rates of duty on alcohol, tobacco and fuel, may take effect before the Finance Bill receives royal assent. This is achieved via a single “provisional collection of taxes” motion following the budget speech. However, these changes are then subject to further confirmations, and ultimately it is the Finance Bill which gives them lasting effect (House of Commons Library, [The Budget and the Annual Finance Bill](#), 5 November 2018, p 4).

² House of Lords Constitution Committee, [Money Bills and Commons Financial Privileges](#), 3 February 2011, HL Paper 97 of session 2010–12, p 3.

³ *ibid.*

⁴ House of Commons Library, [The Budget and the Annual Finance Bill](#), 5 November 2018, p 7.

⁵ *ibid.*, p 3.

⁶ [HC Hansard, 29 October 2018, cols 653–69.](#)

⁷ *ibid.*, cols 670–749; [HC Hansard, 30 October 2018, cols 788–883](#); [HC Hansard, 31 October 2018, cols 925–1021](#); [HC Hansard, 1 November 2018, cols 1085–200](#); and [HL Hansard, 13 November 2018, cols 1792–868.](#)

⁸ House of Lords Library, [Budget 2018](#), 7 November 2018.

⁹ [HC Hansard, 12 November 2018, cols 54–146.](#)

¹⁰ UK Parliament, '[Bill Stages—Finance \(No. 3\) Bill 2017–19](#)', accessed 17 January 2019.

¹¹ House of Commons Library, '[2018 Budget and Finance \(No 3\) Bill 2017–19](#)', 24 December 2018.

¹² [Explanatory Notes](#), p 258.

¹³ Member's Explanatory Statement in House of Commons, [Consideration of Bill \(Report Stage\): Finance \(No. 3\) Bill, As Amended](#), 8 January 2019, amendment 7.

¹⁴ [HC Hansard, 8 January 2019, col 264.](#) The deal referred to was subsequently rejected in the ‘meaningful vote’ on the Government’s withdrawal agreement on 15 January 2019 (UK Parliament, '[Government Loses “Meaningful Vote” in the Commons](#)', 16 January 2019).

¹⁵ *ibid.*, col 269.

¹⁶ *ibid.*, cols 278–82.

¹⁷ Jessica Elgot, '[Labour Backs Cross-party Amendment to Block No-deal Brexit](#)', *Guardian*, 7 January 2019.

¹⁸ House of Lords Economic Affairs Committee, [Making Tax Digital for VAT: Treating Small Businesses Fairly](#), 22 November 2018, HL Paper 228 of session 2017–19, p 11.

¹⁹ *ibid.*, p 28.

²⁰ House of Lords Economic Affairs Committee, [The Powers of HMRC: Treating Taxpayers Fairly](#), 4 December 2018, HL Paper 242 of session 2017–19, p 9.

²¹ *ibid.*, p 3.

²² House of Commons Treasury Committee, '[Budget 2018 Inquiry](#)', accessed 21 January 2019.

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