EUROPEAN UNION (FINANCE) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the European Union (Finance) Bill as introduced in the House of Commons on 03 June 2015 (Bill 5).

- These Explanatory Notes have been prepared by HM Treasury in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	**2**
Policy background	**2**
Legal background	**3**
Territorial extent and application	**3**
Commentary on provisions of Bill	**4**
Clause 1	4
Clause 2	4
Commencement	**5**
Financial implications of the Bill	**5**
Parliamentary approval for financial costs or for charges imposed	**6**
Related documents	**6**
Annex A - Territorial extent and application	**7**

Overview of the Bill

1 The purpose of the European Union (Finance) Bill is to enable the United Kingdom to give effect to the new Own Resources Decision of the European Union (EU Council Decision of 26 May 2014: 2014/335/EU, Euratom), amending the arrangements for the financing of the annual budget of the EU.

Policy background

2 The European Union (Finance) Bill reflects the political agreement reached at the 2013 February European Council (FEC) on the revenue side of the 2014 to 2020 Multiannual Financial Framework (MFF). The financing system (the "own resources" system) for the 2014 to 2020 MFF, as agreed by the FEC, sees very little change to the system in place for the 2007 to 2013 MFF; there will be no new Own Resource, no EU-wide taxes, and no change to the UK abatement.

3 Under the current Own Resources Decision (Council Decision of 7 June 2007: 2007/436/EC, Euratom), the EU budget is financed primarily from own resources, consisting of:

a. Levies and duties on trade with non-member countries in agricultural goods including sugar;

b. Customs duties on trade with non-member countries. Together with 3(a), these are called "traditional own resources" or TOR ;

c. The yield from applying a call-up rate to a hypothetical harmonized VAT base, assuming an identical range of goods and services in each Member State; and

d. A fourth resource based on Gross National Income (GNI), the call-up rate of which is determined by what is required (given all other revenue) to balance the budget on the one hand and the total EU GNI on the other hand.

4 The new Own Resources Decision (ORD) retains the existing categories of own resources and does not introduce any new own resources or EU-wide taxes to finance the EU budget.

5 The Member States' "retention rate" for Traditional Own Resources (TOR), which covers Member States' collection costs for customs duties, is reduced from 25% to 20%. This means a larger share of the EU budget will be financed from TOR with a corresponding reduction in GNI-based contributions. Notwithstanding, this change will have no impact on the ultimate cost of the EU budget to the UK (see Financial Implications).

6 For the period 2014 to 2020, the ORD re-introduces the reduced rate of call for VAT-based contributions for Germany, the Netherlands and Sweden, which will be fixed at 15% for these Member States compared to 0.3% for all other Member States. Austria, which benefited from a reduced call rate for its VAT-based contributions over 2007 to 2014, will revert to a standard call rate (0.3%) over the 2014 to 2020 MFF.

7 For the period 2014 to 2020, the ORD also re-introduces reductions in the GNI-based contributions of the Netherlands and Sweden, and introduces a reduction in these contributions for Denmark. These reductions constitute lump sum corrections for these Member States and they are fixed at €695 million, €185 million and €130 million per year respectively. Reductions in GNI-based contributions of €30 million in 2014, €20 million in 2015 and €10 million in 2016 are provided also to Austria. All amounts are expressed in 2011 prices.

8 The ORD lays down the own resources ceilings for payments (1.23% of total Member States

GNI) and commitments (1.29%) and sets out the method for calculating subsequent changes to these ceilings following the introduction of European Systems of Accounts 2010 (ESA 2010) by all Member States.

9 The ORD retains the current mechanism for the UK abatement and the way it is financed by other Member States. Three time-limited transitional provisions in the abatement text have been deleted, as they expired at the end of 2013: (i) enlargement-related adjustment to total allocated expenditure; (ii) a phase-in schedule for the "disapplication" of the UK abatement to non-agricultural expenditure in Member States that have acceded to the EU after 30 April 2004, which is now fully phased-in; and (iii) a cap on the cost to the UK of the abatement "disapplication".

10 The ORD sets out the procedures for Member States' financing of the annual EU budget through the own resources system. These include (i) the "universality principle" - which states that own resources shall be used without distinction to finance all expenditure entered in the Union's annual budget; (ii) the treatment of budget surpluses - any surplus over total actual expenditure shall be carried over to the following financial year; and (iii) the legal requirement for Member States to collect own resources and make them available to the European Commission.

Legal background

11 The Bill will give effect to the Government’s agreement to the EU Decision on EU financing for the period 2014 to 2020 by approving the Decision itself and adding it to the list of EU Treaties (Community Treaties) for the purposes of the European Communities Act 1972, so that the necessary funds can be charged on the Consolidated Fund.

12 The legal basis of the ORD is the third paragraph of Article 311 Treaty on the Functioning of the European Union (TFEU) and Article 106a EURATOM.

Territorial extent and application

13 The provisions of the Bill extend to the whole of the UK. The subject-matter of the Bill does not fall within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.

Commentary on provisions of Bill

14 The Bill has two clauses.

Clause 1

15 *Clause 1* provides (a) that the Council decision of 26 May 2014 on the system of own resources of the EU (2014/335/EU, Euratom) is approved for the purposes of subsection (1) of section 7 of the European Union Act 2011(decisions requiring approval by Act of Parliament) and (b) that the new ORD shall be added to the list of Community Treaties in section 1(2) of the European Communities Act 1972, thus allowing payments made by the United Kingdom pursuant to the Decision to be charged directly on the Consolidated Fund or the National Loans Fund under section 2(3) of that Act.

Clause 2

16 *Clause 2* repeals the European Communities (Finance) Act 2008 since the wording of section 1(2)(e) of the European Communities Act 1972 substituted by clause 1 of the Bill supersedes that substituted by the 2008 Act.

Commencement

17 The Bill will come into force two months after Royal Assent. The ORD requires approval by Member States in accordance with their constitutional requirements. It will enter into force on the first day of the month following receipt by the European Commission of the final notification of Member State approval but will apply retrospectively to 1 January 2014.

Financial implications of the Bill

18 The actual financial cost to the UK of the 2014 to 2020 Multiannual Financial Framework (MFF) is contingent on a number of factors, including the size of each year's EU budget, distribution of spending across programmes and Member States, implementation, miscellaneous revenues of the EU (e.g. fines and penalties imposed by the Commission on private companies and Member States) and, most importantly, economic factors such as the relative growth performance and exchange rates. These factors determine the level of EU spend, relative economic size of Member States (which in turn determine how the financial burdens are divided), and the value of the UK's abatement.

19 At the time of the December 2011 Explanatory Memorandum on the amended Commission proposal for own resources legislation, the UK's contribution to the 2014 to 2020 MFF was provisionally estimated to be around 14.5% pre-abatement and 11.4% post-abatement.

20 The proportion of Traditional Own Resources (TOR) that Member States keep to cover their collection costs is reduced from 25% of the amount collected to 20%. While this will affect the UK's in-year contributions, it will not affect the ultimate cost of the 2014 to 2020 MFF to the UK when abatement is taken into consideration. This is because, through the abatement mechanism, the UK does not derive any financial benefits or incur additional costs due to any changes to the financing system of the EU since 1984.

21 This "not a penny more, not a penny less" principle ensures that the ultimate cost of the EU budget to the UK today is the same as it would have been under the system that existed in 1984. Various changes to the EU financing system since then are reflected in adjustments to the calculation of the UK abatement. For example, changes in the TOR collections costs since 1984 are negated by the "TOR windfall gains" adjustments; and the effect of the introduction of the Fourth Resource (GNI-based contributions) on the cost to the UK are corrected through the "UK advantage" adjustment. This approach and the underlying principle mean that the UK will not be affected by the change in TOR collection costs when the UK abatement is taken into account.

22 The UK contributes to the annual GNI reductions (lump sum corrections) for other Member States. This means that the UK will contribute to the two new lump sum corrections (for Denmark and Austria) which average approximately €138.8 million per year for the two Member States over the 2014 to 2020 period. On the basis of the estimates for the UK's financing shares in paragraph 19, these would cost the UK approximately €20.1 million per year.

Parliamentary approval for financial costs or for charges imposed

23 A money resolution will be needed in the House of Commons to authorise expenditure out of the Consolidated Fund or the National Loans Fund resulting from the amendment of the European Communities Act 1972 made by the Bill.

Related documents

24 The following documents are relevant to the Bill and can be read at the stated locations:

- Explanatory Memorandum on ORD (17 February 2014):

URL: http://europeanmemoranda.cabinetoffice.gov.uk/files/2014/03/5466-14.pdf

- The House of Commons European Scrutiny Committee reported on the draft of the May 2014 ORD in its 37th Report of Session 2013–14 (HC 83-xxxiv), published on 11 March 2014. The Committee concluded "we note that the agreed Own Resources Decision will require an Act to amend Section 1(2)(e) of the European Communities Act 1972 and suggest that Members will want to take that opportunity to examine the Government's assertions in relation to the effects of the Own Resources system for the UK during the period 2014-2020" (37th Report of Session 2013–14, HC 83-xxxiv, paragraph 22.14).

URL: http://www.publications.parliament.uk/pa/cm201314/cmselect/cmeuleg/83-xxxiv/8302.htm

- Council Decision on the system of own resources of the EU (26 May 2014): http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014D0335&qid=1432207654786&from=EN

Annex A - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Legislative Consent Motion required?**	**Extends to Scotland?**	**Legislative Consent Motion required?**	**Extends to Northern Ireland?**	**Legislative Consent Motion required?**
Clause 1	Yes	Yes	No	Yes	No	Yes	No
Clause 2	Yes	Yes	No	Yes	No	Yes	No

EUROPEAN UNION (FINANCE) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the European Union (Finance) Bill as introduced in the House of Commons on 03 June 2015 (Bill 5).

Ordered, by the House of Commons to be printed, 03 June 2015.

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS

LONDON - THE STATIONERY OFFICE LIMITED

Printed in the United Kingdom by The Stationery Office Limited

£ FOR TSO USE