These notes refer to the Loans to Ireland Bill
as brought from the House of Commons on 15th December 2010 [HL Bill 36]

LOANS TO IRELAND BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Loans to Ireland Bill as brought from the House of Commons on 15th December 2010. They 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.

2. The Notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND TO BILL

3. The Government has agreed in principle to make a bilateral loan to Ireland, as part of an international package of measures to provide financial assistance to Ireland. The Bill authorises HM Treasury to make payments in respect of loans to Ireland out of money provided by Parliament. Statutory authority for such expenditure is required in accordance with the Concordat of 1932 between the Government and the Public Accounts Committee.[1]

TERRITORIAL EXTENT AND APPLICATION

4. The Bill extends to England and Wales, Scotland and Northern Ireland.

5. This Bill does not contain any provisions falling within the terms of the Sewel Convention. Because the Sewel Convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament, if there are amendments relating to such matters which trigger the Convention, the consent of the Scottish Parliament will be sought for them.

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[1] See Annex 2.1 of *Managing Public Money*, http://www.hm-treasury.gov.uk/d/mpm_annex2.1.pdf.

6. The Bill does not affect matters which are the responsibility of devolved institutions in Wales, and does not contain any provisions that would require a legislative consent motion in Northern Ireland.

FAST TRACK LEGISLATION

7. The passage of the Bill in the House of Commons was expedited at the request of the Government and the Government intends to ask that the Bill also be expedited in the House of Lords. In their report on Fast-track Legislation: Constitutional Implications and Safeguards[2], the House of Lords Select Committee on the Constitution recommended[3] that the Minister responsible for the Bill should make an oral statement to the House of Lords outlining the case for fast-tracking when the Bill is introduced to the House. The details contained in the oral statement should also be set out in a written memorandum included in the Explanatory Notes.

Why is fast-tracking necessary?

8. The UK's bilateral loan is a key part of an international package of measures to provide financial stability to Ireland. The Bill will authorise HM Treasury to make loan disbursements to Ireland, and the timing of the UK's proposed loan disbursements is currently unclear. It is necessary to fast-track the Bill so that the UK's international partners can be confident that the bilateral loan will be implemented.

What is the justification for fast-tracking each element of the Bill?

9. The Bill is a short Bill, with few substantive provisions other than to provide for sums required by HM Treasury, in order to make payments to Ireland, to be paid out of money provided by Parliament. The other provisions are an order-making power to increase the limit on lending, and an obligation to report to the House of Commons about the loan. These provisions are closely linked to the financial authorisation provision, and need to be read together.

What efforts have been made to ensure the amount of time made available for parliamentary scrutiny has been maximised?

10. In the House of Commons the Bill was published on the day it was introduced and arrangements were made for amendments to be accepted in advance of Second Reading.

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[2] House of Lords, Select Committee on the Constitution, 15th report of Session 2008-09, Fast track Legislation: Constitutional Implications and Safeguards', HL Paper 116-I. Available at http://www.publications.parliament.uk/pa/ld200809/ldselect/ldconst/116/116.pdf.

[3] Ibid, paragraph 186.

To what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

11. The overall package of measures to provide financial stability to Ireland has been agreed with a number of international partners, including the International Monetary Fund (IMF) and the European Union. Given the importance of the package and the need to provide those international partners with certainty over the bilateral lending provided for by the Bill in order to finalise the package, there has been limited opportunity to give interested parties and outside groups an opportunity to influence.

Does the Bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why do the Government judge that their inclusion is not appropriate?

12. The authority for financial expenditure in relation to the loan expires after five years. The intention is to disburse over a slightly shorter timeframe, possibly three years, but the detailed schedule for disbursement still needs to be agreed with Ireland and with the other international lenders (IMF, European Financial Stability Mechanism, European Financial Stability Facility, Sweden and Denmark). Five years will provide sufficient flexibility. The disbursements will also be constrained by the cap.

13. The reporting requirement ceases to have effect once the loans have been repaid.

Are mechanisms for effective post-legislative scrutiny and review in place? If not, why do the Government judge that their inclusion is not appropriate?

14. The Bill provides for regular reports to be made to the House of Commons, giving details relating to loan disbursements authorised by the Bill (see *clause 2(3)* for a list of the details that must be included in the reports). In common with all legislation, HM Treasury will comply with the agreed process for post-legislative scrutiny.

Has an assessment been made as to whether existing legislation is sufficient to deal with any or all the issues in question?

15. HM Treasury considers that existing legislation does not provide authority for the expenditure required for the loan. As mentioned in paragraph 3, statutory authority for such expenditure is required in accordance with the Concordat of 1932 between the Government and the Public Accounts Committee.

Have the relevant Parliamentary committees been given the opportunity to scrutinise the legislation?

16. Given the importance of the international package of measures to provide financial stability to Ireland and the need to provide the UK's international partners with certainty over the bilateral lending provided for by the Bill, it has been prepared at great speed, and therefore Parliamentary committees have not been given an opportunity to scrutinise the legislation. However, HM Treasury will be willing to meet with the Treasury Select Committee, or any other committee, although this will be determined by the committees' own agendas. The Chancellor announced at the Treasury Select Committee hearing on the OBR Autumn

Forecast (8th December 2010) that the Bill would be introduced to the House of Commons on 9th December 2010 along with details on the provisions of the Bill.

COMMENTARY

17. Clause 1 provides that there may be paid out of money provided by Parliament sums required by HM Treasury for the purpose of making loans to Ireland by the UK. The maximum amount of payments that HM Treasury may make (excluding repayments), in the 5 year period beginning 9th December 2010, is £3,250 million. HM Treasury has an order-making power under s*ubsection (4)* to increase that limit. Where HM Treasury increases that limit solely for the purpose of taking into account exchange rate fluctuations between sterling and the euro during any part of the period between 9th December 2010 and the 30th day after the Bill receives Royal Assent, the order is not subject to any Parliamentary procedures. Otherwise, any order increasing the financial limit on lending is subject to affirmative procedure in the House of Commons.

18. Clause 2 provides that HM Treasury is under a duty to report to the House of Commons at six monthly intervals. The details required to be included in the reports are listed in *subsection (3).*

FINANCIAL EFFECTS

19. The Bill authorises HM Treasury to pay out up to £3,250 million in loans to Ireland out of money voted by Parliament. The effect on the fiscal position will be to increase the UK's level of net debt and the UK will receive interest payments over and above interest paid to finance the loan.

PUBLIC SECTOR MANPOWER

20. No changes are expected to public sector manpower.

IMPACT ASSESSMENT

21. The Bill will impose no significant direct costs, benefits or risks on the private sector. As such no formal impact assessment is required.

COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

22. Lord Sassoon has stated, pursuant to section 19 of the Human Rights Act 1998, that the Bill is compatible with the Convention rights. The Bill does not engage any Convention rights.

COMMENCEMENT

23. The Bill comes into force at Royal Assent.

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