

BUDGET RESPONSIBILITY AND NATIONAL AUDIT ACT 2011

EXPLANATORY NOTES

BACKGROUND AND SUMMARY

3. In summary, the Act:
 - imposes a range of duties on the Treasury with regard to the formulation and implementation of fiscal policy, including through the Charter for Budget Responsibility;
 - establishes the Office for Budget Responsibility to examine and report on the sustainability of the public finances; and
 - modernises the governance arrangements of the National Audit Office.

Part 1: Budget Responsibility

4. **Part 1** of the Act establishes the Office for Budget Responsibility (“the Office”) on a statutory basis. Part 1 also makes provision for the Government’s reforms to the fiscal framework, of which the Office is a major part.

Evolution of the Government’s fiscal framework

5. Legislation underpinning the previous Government’s fiscal framework was most recently updated through the Fiscal Responsibility Act 2010 (“FRA 2010”). The Act required the Treasury to meet specific fiscal targets and report on progress to Parliament. It supplemented the fiscal provisions in the Finance Act 1998 (“FA 1998”) which established a Code for Fiscal Stability. The code explained the previous Government’s principles for fiscal policy, prescribed contents for Budget and Pre-Budget Reports and set out the National Audit Office’s (NAO) role in auditing key forecast assumptions.
6. Government is seeking to reform the UK’s fiscal framework in a number of ways. The Budget Responsibility and National Audit Act repeals the previous fiscal framework and makes provision for the Government’s reforms.
7. The provisions of *sections 1* and *2* supersede a number of elements of the previous fiscal framework. *Section 1* provides for a new Charter for Budget Responsibility, which the Treasury will prepare to describe the Government’s fiscal and debt management policy and how this will operate. This provision replaces the requirement in section 155 of the FA 1998 to prepare a Code for Fiscal Stability. The Charter for Budget Responsibility must make provision for the Government’s fiscal and debt management objectives and its targets for fiscal policy that delivers these fiscal objectives (the “fiscal mandate”). This requirement supersedes the fiscal targets and reporting procedures of the FRA 2010. *Section 2* concerns the annual Financial Statement and Budget Report (the “FSBR” or the “Budget”), replacing the relevant provisions in the FA 1998.

The Office for Budget Responsibility

8. The remainder, and bulk, of Part 1 provides for the establishment of the Office on a statutory basis. *Section 3* establishes the Office as a body corporate. The Office will be led by a three-person Budget Responsibility Committee (BRC), appointed by the Chancellor with the consent of the Treasury Select Committee, and supported by at least two non-executive members.
9. *Section 4* describes the functions of the Office. Its main duty will be to examine and report on the sustainability of the public finances. In particular, the Office will produce economic and fiscal forecasts, which the Government intends to adopt as the “official” forecasts for the annual Budget. The Office will control the production of the forecasts and make all of the judgments that underpin them, independent of Ministers; it will no longer be the Chancellor of the day who is responsible for these judgments. The Office will also undertake broader research and analysis into a range of issues relating to fiscal sustainability. In particular, the Office will produce long-term fiscal projections and analysis relating to the public sector balance sheet.
10. The Office’s forecasting role supplants the forecast-auditing role of the NAO and so the provisions of FA 1998 relating to this role are repealed. The Office’s economic forecasting function also supersedes the duty on the Treasury to produce biannual economic forecasts in the Industry Act 1975, which is also repealed.

The interim Office

11. The Government established the Office on a non-statutory, interim basis on 17 May 2010 to deliver an independent assessment of the economy and public finances for the new Government’s first Budget. The interim body was led by an interim BRC headed by Sir Alan Budd and also comprising Geoffrey Dicks and Graham Parker.
12. Following its hearing on 16 September 2010, the Treasury Select Committee (TSC) approved the appointment of Robert Chote to become the first permanent Chair of the Office, commencing on 4 October 2010. The TSC also approved the appointments of Stephen Nickell and Graham Parker as the remaining two permanent members of the Budget Responsibility Committee.

Part 2: National Audit

13. *Part 2* of the Act modernises the governance arrangements for the NAO. The provisions were previously included in the Constitutional Reform and Governance Bill where they formed Part 7 of the Act as introduced. The clauses were scrutinised by the House of Commons but were lost in the House of Lords during the “wash-up” stage immediately before the 2010 General Election.¹

Previous audit legislation

14. The office of Comptroller and Auditor General (C&AG) was created in 1866 when the role of the Comptroller of the Exchequer was combined with that of the Commissioners for Audit. The C&AG is still appointed under the Exchequer and Audit Departments Act 1866 (the “1866 Act”). The National Audit Act 1983 (the “1983 Act”) built on that framework and provided for the C&AG to be head of the NAO, an office which consists of the C&AG and the staff appointed by the C&AG. The C&AG audits the accounts of Government departments and a wide range of other public bodies under a number of statutory powers. Under the 1983 Act, the C&AG carries out “value for money” examinations of the way in which departments and other public bodies have

¹ House of Commons, Committee of the whole House, Constitutional Reform and Governance Act debate, 4 November 2009: Column 922. Available at:

<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm091104/debtext/91104-0014.htm>

used their resources. In addition, the C&AG audits certain public funds and has rights of inspection and examination over other bodies which receive public money.

15. Under the 1983 Act, a committee of Members of Parliament, the Public Accounts Commission (“the Commission”), was set up to oversee the activities of the C&AG and the NAO. Its functions include agreeing the voted resources of the NAO.

The Commission’s Review

16. In July 2007, the Commission initiated a review of the corporate governance arrangements of the NAO to ensure that they conformed to best practice. The Commission’s Report was published as HC 402 on 6 March 2008.²
17. The Commission recommended that the NAO should remain the Government’s auditor, independent of Government and answerable directly to Parliament through the Commission. Its audit reports, both financial and value for money, should continue to be laid in Parliament and the Committee of Public Accounts (PAC) would continue to hold scrutiny hearings on some of them. As chief executive of the NAO, the C&AG should continue to lead its audit work and to make professional judgements on its audit reports. However, the Commission said that the NAO should also have a board with a majority of non-executives, including a non-executive chair. The board would be charged with setting the strategic direction for the NAO and supporting the C&AG. The C&AG would have a fixed term of ten years instead of the current unlimited term. The Government accepted the Commission’s recommendations, which it sought to implement through the Constitutional Reform and Governance Act (see above).

The provisions of Part 2

18. **Part 2** of the Act therefore makes provision for the modernisation of the NAO’s governance arrangements. It continues the office of C&AG as an independent officer of Parliament but limits the term of appointment to that office to ten years. It provides for the establishment of a new corporate body, the new NAO, whose functions will include providing resources for the C&AG’s functions, monitoring the carrying out of those functions and approving the provision of certain services. The NAO will have a majority of non-executives and be led by a non-executive chair. The C&AG will be the NAO’s chief executive but will not be an NAO employee. Within the new governance framework, the C&AG continues to have complete discretion in the carrying out of the C&AG’s functions. Part 2 also confers legislative competence on the National Assembly for Wales to pass legislation concerning the governance arrangements of the Auditor General for Wales.
19. When the Commission met on 16 December 2008, it published the Government’s draft clauses and (subject to a recommendation that the C&AG’s pay should be linked to that of the Lord Chief Justice and that the employment restriction should last for five years) said it was content with the clauses.³

² The Public Accounts Commission ‘Corporate Governance of the National Audit Office: Response to John Tiner’s Review’ 4 March 2008, HC402. Available at:

<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpacomm/402/402.pdf>

³ Its recommendations are available at

http://www.parliament.uk/parliamentary_committees/public_accounts_commission/tpacfm161208.cfm