THIRD ANNUAL REPORT ON THE IMPLEMENTATION OF THE SCOTLAND ACT 2016

SEVENTH ANNUAL REPORT ON THE IMPLEMENTATION AND OPERATION OF PART 3 (FINANCIAL PROVISIONS) OF THE SCOTLAND ACT 2012

Third Annual Report on the Implementation of the Scotland Act 2016

Presented to Parliament by the Secretary of State for Scotland by Command of Her Majesty

April 2019

Seventh Annual Report on the Implementation and Operation of Part 3 (Financial Provisions) of the Scotland Act 2012

Presented to Parliament pursuant to section 33(1)(b) of the Scotland Act 2012

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FOREWORD

This report marks another year of significant progress in transferring powers devolved under the Scotland Act 2016 to the Scottish Parliament and Scottish Government, and fulfils our commitment to report on Part 3 of the Scotland Act 2012 which deals with the devolution of financial powers.

In the 2014 independence referendum Scotland voted decisively to remain in the UK, and the UK Government has respected that decision by honouring our commitment to deliver further powers for the Scottish Parliament through the Smith Commission Agreement. The Scotland Act 2016 delivers on the Smith Agreement in full and we are honouring our commitment to implement the Act in full.

On 8 February this year we brought section 27 of the Scotland Act 2016, which is the final uncommenced section of the Act, into force, handing over the last of the powers which the Act transfers to the Scottish Parliament. Scottish Ministers are now able to launch their Best Start Foods scheme, replacing the UK Healthy Start scheme in Scotland and continuing to provide support for low-income pregnant women and families in Scotland to purchase healthier foods. Welfare foods joins the extensive list of powers devolved to the Scottish Parliament under the Scotland Act 2016, including the power to set rates and bands of income tax, to create new benefits in devolved areas and to legislate on a variety of new areas such as equalities in the public sector, onshore oil and gas licensing, and management of the Crown Estate. Following this milestone, the Scottish Parliament can now legislate in every area where the Scotland Act 2016 has given it power to do so - reinforcing its standing as one of the most powerful devolved parliaments in the world.

This follows a further year of progress in which the UK Government has worked collaboratively with the Scottish Government to support the implementation of their new responsibilities. In welfare, this includes the Department for Work and Pensions transferring executive competence for Carer’s Allowance in Scotland, providing the access to its computer systems needed for the Scottish Government to launch and administer their Best Start Grant, and continuing to deliver devolved benefits in Scotland until Social Security Scotland are able to take over delivery responsibility. The UK Government remains committed to ensuring the safe and smooth transfer of powers to Scottish Ministers as they are devolved.

Since the publication of last year’s report we have celebrated the 20th anniversary of the Scotland Act 1998. The last twenty years have seen a powerful Scottish Parliament thrive within a strong United Kingdom. It has been just over three years since the Scotland Act 2016 received Royal Assent, and three years of close collaboration between the UK Government and Scottish Government has been crucial in building on that work to further strengthen the Scottish Parliament, the devolution settlement, and the United Kingdom. Working closely with the Scottish Government on the safe transfer of powers as they are devolved remains a top priority for the UK Government, and I look forward to another year of progress ahead.

Rt Hon DAVID MUNDELL MP
SECRETARY OF STATE FOR SCOTLAND

PART 1: SCOTLAND ACT 2016

CHAPTER 1

INTRODUCTION

Scope and Content of this Part

1. This report on the Scotland Act 2016 is the third published since the Act received Royal Assent on 23 March 2016.

2. The Scotland Act 2016 devolves a range of further powers to the Scottish Parliament, and sets out a range of financial powers and measures. These include:
    - devolution of Income Tax powers including the power to set rates and bands on earned income;
    - assignment of VAT;
    - devolution of air passenger tax;
    - devolution of aggregate tax;
    - the power to borrow; and
    - the destination of fines, forfeitures and fixed penalties.

3. This report provides an update on these sections, and also outlines updates against the devolution of non-financial powers set out in the Scotland Act 2016. These include the devolution of a range of new welfare powers, including the power to create new benefits in devolved areas and the power to top-up reserved benefits in Scotland. It also includes other spending powers relating to welfare benefits (for example disability, carer's, and payments from the social fund), roads, policing of railways in Scotland, onshore petroleum licensing, tribunals, elections, consumer advocacy and advice, and remaining areas of the Scotland Act 2016.

4. The fiscal framework was published on 25 February 2016[1]. On Tuesday 15 March 2016 the Scottish and UK Governments published a further annex[2]. The fiscal framework sets out the agreement between the Scottish Government and the UK Government on the Scottish Government's fiscal framework, consistent with the principles contained in the Smith Commission Agreement and including a number of elements which will be covered by this report, including:
   - block grant adjustments for taxation and welfare;
   - administration and implementation costs;
   - spillover effects;
   - borrowing; and
   - scrutiny.

5. The fiscal framework outlines the reporting requirements for the Scotland Act 2016, that both the UK Government and the Scottish Government will prepare and publish an annual update report on functions and duties being devolved under the Scotland Act 2016 that will be provided to both Parliaments. The information contained in this Part is also relevant to the statutory requirements contained in the Scotland Act 2012, outlined in Part 2 of this report. Therefore the reporting requirements for the Scotland Act 2016 are being presented in one document alongside that for the Scotland Act 2012.

[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/503481/fiscal_framework_agreement_25_feb_16_2.pdf

[2] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508102/Fiscal_Framework_-_Text_-_Annex_to_the_fiscal_framework_-_15th_March_201....pdf

CHAPTER 2

IMPLEMENTATION PROGRESS

6. The following provisions in the Scotland Act 2016 have been commenced since Royal Assent on 23 March 2016:

Section	Section Title	Date of commencement
Part 1 : Constitutional Arrangements		
1	Permanence of the Scottish Parliament and Scottish Government	23 March 2016
2	The Sewel convention	23 May 2016
3	Elections	18 May 2017
4	Power to make provision about elections	18 May 2017
5	Timing of elections	18 May 2017
6	Electoral registration: the digital service	18 May 2017
7	Expenditure in connection with elections	18 May 2017
8	Review of electoral boundaries by the Local Government Boundary Commission for Scotland	18 May 2017
9	Functions exercisable within devolved competence: elections	18 May 2017
10	Minor and consequential amendments: elections etc.	18 May 2017
11	Super-majority requirement for certain legislation	18 May 2017
12	Scope to modify the Scotland Act 1998	18 May 2017

Part 2: Tax and Fiscal		
13	Power of Scottish Parliament to set rates of income tax	30 November 2016
14	Amendments of Income Tax 2007	23 May 2016
15	Consequential amendments: income tax	23 May 2016
16	Assignment of VAT	23 May 2016
17	Tax on carriage of passengers by air	23 May 2016 Provision will take effect at a time agreed by UK and Scottish Governments.
18	Tax on commercial exploitation of aggregate	23 May 2016 Provision will take effect at a time determined by the Joint Exchequer Committee.
19	Devolved taxes: further provision	23 May 2016
20	Borrowing	1 April 2017
21	Provision of information to the Office for Budget Responsibility	1 April 2017
Part 3: Welfare		
22	Disability, industrial injuries and carer's benefits	Section 22(3) and (1) so far as relating to (3) on 5 September 2016; section 22(1) for remaining purposes and (2) and (4) on 17 May 2017.

23	Benefits for maternity, funeral and heating expenses	Section 23(3) and (1) so far as relating to (3) on 5 September 2016; section 23(1) for remaining purposes, (2), (4) and (5) for the purpose of making regulations on 17 May 2017; and section 23(5) for remaining purposes on 1 April 2020.
24	Discretionary payments: top-up of reserved benefits	5 September 2016
25	Discretionary housing payments	1 April 2017
26	Discretionary payments and assistance	5 September 2016
27	Welfare foods	8 February 2019
28	Power to create other new benefits	5 September 2016
29	Universal Credit: costs of claimants who rent accommodation	5 September 2016
30	Universal Credit: persons to whom, and time when, paid	5 September 2016
31	Employment Support	5 September 2016
32	Functions exercisable within devolved competence	5 September 2016
33	Social Security Advisory Committee and Industrial Injuries Advisory Council	5 September 2016
34	Information-sharing	5 September 2016
35	Extension of unauthorised disclosure offence	5 September 2016

Part 4: Other Legislative Competence		
36	Crown Estate	36 (1), (5), (6), (9), (10), (11), (12) on 23 March 2016 The remainder on transfer date for Crown Estate Scheme on 01 April 2017.
37	Equal opportunities	23 May 2016
38	Public sector duty regarding socio-economic inequalities	23 May 2016
39	Tribunals	23 May 2016
40	Roads	23 May 2016
41	Roads: Traffic signs etc	23 May 2016
42	Roads: Speed limits	23 May 2016
43	Roads: Parking	23 May 2016
44	Roads: consequential provision etc	23 May 2016
45	Policing of railways and railway property	23 May 2016
46	British Transport Police: cross border public authorities	23 May 2016
47	Onshore Petroleum	9 February 2018
48	Onshore Petroleum: Consequential amendments	9 February 2018
49	Onshore Petroleum: existing licences	29 November 2017
50	Consumer Advocacy and Advice	23 May 2016
51	Functions exercisable within devolved competence: consumer advocacy and advice	23 May 2016
52	Gaming machines on licenced betting premises	23 May 2016
53	Abortion	23 May 2016

Part 5: Other Executive Competence		
54	Gaelic Media Service	23 May 2016
55	Commissioners of Northern Lighthouses	23 May 2016
56	Maritime and Coastguard Agency	23 May 2016
57	Rail: franchising of passenger services	23 May 2016
58	Fuel poverty: support schemes	Section 58 for the purpose of making certain regulations on 1 December 2017. Section 58 (so far as not already in force) on 01 April 2018.
59	Energy company obligations	Section 59 for the purpose of making certain regulations on 1 December 2017. Section 59 (so far as not already in force) on 1 October 2018.
60	Apportionment of targets	Section 60 for the purpose of making certain regulations on 1 December 2017. Section 60 (so far as not already in force) on 1 October 2018.
61	Renewable electricity incentive schemes: consultation	23 May 2016
62	Offshore Renewable Energy Installations	1 April 2017
63	References to Competition and Markets Authority	23 May 2016
Part 6: Miscellaneous		
64	Gas and Electricity Markets Authority	23 May 2016
65	Office of Communications	18 August 2016

66	Bodies that may be required to attend before the Parliament	23 May 2016
67	Destination of fines, forfeitures and fixed penalties	1 April 2017
Part 7: General		
68	Subordinate legislation under functions exercisable within devolved competence	23 March 2016
69	Transfers of property etc to the Scottish Ministers	23 March 2016
70	Transitional provision	23 March 2016
71	Power to make consequential, transitional and saving provision	23 March 2016
72	Commencement	23 March 2016
73	Short Title	23 March 2016

Implementation and commencement across the Scotland Act 2016

7. A number of provisions came into force on Royal Assent and two months after Royal Assent. Since that point, nine commencement regulations have been made to bring further sections of the Act into force. All sections of the Scotland Act 2016 which increase the powers of the Scottish Parliament are now in force.

8. The fiscal framework agreement sets out a number of agreed dates between the Governments on implementation and commencement of the powers in the Scotland Act 2016.

Governance

9. The Scotland Act 2016 Implementation Board was set up after Royal Assent of the Act as the overseer of implementation across the whole Act. The Board is chaired

by the Director of the Office of the Secretary of State for Scotland, and attended by UK Government departments with policies covered in the Act.

10. The Board meets every six weeks to monitor progress on implementation and commencement. It supplements governance structures within UK Government departments that exist to implement the provisions in the Scotland Act 2016 and transfer responsibilities to the Scottish Parliament and the Scottish Government.

CHAPTER 3

INCOME TAX

> *Since 6 April 2017, the Scottish Parliament has had the power to set the income tax rates and bands applicable to Scottish taxpayers on their non-savings and non-dividend income. The rates and bands will be set each year in its Scottish Rate Resolution. The Scottish block grant will be adjusted to reflect the change in funding stream in the manner set out in the fiscal framework agreement between the UK and Scottish Governments of February 2016.*

Steps taken towards implementation since previous report

11. The Scottish Parliament's income tax-raising powers were enhanced by the Scotland Act 2016. Since 2017-18, the Scottish Parliament has had the power to set both the rates and band thresholds (excluding the personal allowance) that apply to all non-savings and non-dividend income tax paid by Scottish taxpayers.

12. In 2016-17, there was no difference between rates in Scotland and the rest of the UK. In February 2017, the Scottish Parliament voted to freeze income tax rates for 2017-18, with no increases to the basic, higher or additional rates. In addition, it agreed to maintain the higher rate of income tax threshold at £43,000 in 2017-18, while the UK higher rate threshold was increased to £45,000. For 2018-19, the Scottish Parliament voted to introduce two new bands, a 'Starter rate' and 'Intermediate rate', creating a new five-band income tax regime. The higher rate threshold was increased to £43,430, while in the rest of the UK it increased to £46,350.

13. In December 2018 the Scottish Government announced its planned income tax rates and bands for 2019-20 in the Scottish Budget 2019-20. Each tax band threshold will increase except for the higher rate and top rate thresholds, which will remain at £43,430 and £150,000 respectively. The rates in each band will not change. The plans were considered by the Scottish Parliament, and on 19

February 2019 the Scottish Parliament passed a Scottish Rate Resolution to set the rates and bands which will apply to Scottish non-savings, non-dividend taxable income for the following tax year:

• Over £12,500-£14,549	• Starter rate 19%
• Over £14,549-£24,944	• Basic rate 20%
• Over £24,944-£43,430	• Intermediate rate 21%
• Over £43,430-£150,000	• Higher rate 41%
• Over £150,000	• Top rate 46%

Project governance

14. Following the Scotland Act 2016, HMRC put in place a project team to implement the further devolved powers set out within the Act, including the further income tax powers.

15. As the project has now moved from implementation to business-as-usual, HMRC has closed down the project and put in place a new governance structure. A Scottish Income Tax Board, compromising members from HMRC, HM Treasury and the Scottish Government, will meet quarterly to ensure HMRC meets the operational obligations set out in its Service Level Agreement with the Scottish Government.

Costs

16. HMRC estimates the overall cost of implementing Scottish income tax powers, from the Scotland Act 2012 and Scotland Act 2016, to be £24.0m. This excludes any extra costs that may arise, and will be recharged to the Scottish Government, from work required to accommodate the new 2019-20 rates and thresholds within HMRC systems and processes.

17. In 2017/18 HMRC invoiced the Scottish Government for £4.83m, made up of £3.3m of IT costs and £1.18 of non-IT costs, and the total running costs were £0.35m.

Actual implementation costs in the 2017-18 reporting period

18. Final figures for 2018-19 are not yet available. HMRC and the Scottish Government have agreed invoice charges for Q1 – Q3 2018-19 for costs associated with implementing and running the further Scottish income tax powers. Charges for Q4 will be agreed in due course. HMRC estimates total implementation costs for 2018-19 to be £2.8m. This is made up of £1.9m IT costs and £0.9m non-IT costs.

CHAPTER 4

OTHER TAX POWERS & FISCAL PROVISIONS

The Scotland Act 2016 provides for Air Passenger Duty and the Aggregates Levy to be devolved. The UK and Scottish Governments agreed in November 2017 to delay Air Passenger Duty devolution, and the introduction of the Scottish Government's replacement Air Departure Tax. A timetable has not yet been agreed by the Joint Exchequer Committee for the devolution of the Aggregates Levy.

The Act also makes provision for the assignment of VAT receipts. The Scottish Government will be assigned the first 10 percentage points of the revenue attributable to Scotland from the standard rate of VAT and the first 2.5 percentage points of the revenue attributable to Scotland from the 5 per cent reduced rate. VAT rates will continue to be set at a UK-wide level. The UK and Scottish Governments have agreed that VAT assignment will commence in 2020-21, following a one year transition period to test the assignment methodology. HMRC's Scottish Tax Devolution Programme Board will directly oversee the transition of these other tax powers.

Steps taken towards implementation since previous report

19. The Scottish Government introduced the Air Departure Tax (Scotland) Bill to the Scottish Parliament on 20 December 2016 in preparation for the switch-over from UK Air Passenger Duty, and the Air Departure Tax (Scotland) Act 2017 received Royal Assent on 25 July 2017. HMRC have worked closely with both the Scottish Government and Revenue Scotland, who will administer the new Scottish tax, to ensure administration is as simple as possible for customers and to avoid issues such as double taxation.

20. In November 2017, the Scottish and UK Governments agreed that the introduction of Air Departure Tax in Scotland would be deferred until issues raised in relation to the exemption for flights departing from the Highlands and Islands have been

resolved. The Scottish Government and UK Government are working closely to deliver the powers when possible. As agreed, the UK Government will maintain the application of Air Passenger Duty in Scotland in the interim.

21. The UK and Scottish Governments have agreed via Joint Exchequer Committee (JEC) that there will be a one year transition period for VAT assignment commencing in 2019-20, where assignment will be forecast but not applied to the Scottish Government's budget. This will allow the assignment methodology to be tested before VAT is fully assigned to the Scottish Government, and the corresponding block grant deduction applied, from 2020-21.

22. In November 2018, the UK and Scottish Governments published a joint summary of the VAT assignment model. It sets out the methodology that will be used to calculate the Scottish share of UK VAT receipts. The model is based on the internationally recognised HMRC VAT Total Theoretical Liability model (VTTL).

23. In February 2019, HMRC received a "boosted sample" from the Office for National Statistics' Living Costs and Food Survey which improves the dataset on the spending in Scottish households. The boosted data increases the robustness of the model as it provides a more accurate picture of VAT receipts generated by expenditure in Scotland.

24. JEC has also agreed that the Scottish Fiscal Commission will be responsible for producing the forecasts for VAT assignment. The Office for Budget Responsibility (OBR) will continue to produce VAT forecasts for the whole UK, which will be used to inform the block grant adjustments.

25. As part of the fiscal framework agreement, the Scottish and UK Governments agreed to share equally all costs incurred as a result of the implementation and administration of VAT assignment. The Scottish Government and HMRC agreed the governance arrangements for the allocation and payment of these costs in February 2017. In 2017-18 total costs incurred by HMRC and the Scottish Government were £0.4m and in 2018-19, up to Q3, totalled £0.1m. These costs were split equally between the organisations.

Further steps to be taken towards implementation in 2018-19

26. In March 2019, the UK and Scottish Governments held a seminar to discuss the VAT Assignment Methodology paper with stakeholders and will continue to work together to implement VAT assignment.

27. The JEC will agree on a suitable point for the commencement for devolution of the Aggregates Levy.

CHAPTER 5

BORROWING POWERS

The Scotland Act 2016 provides the Scottish Government with additional borrowing powers, building on those delivered in the Scotland Act 2012. In addition to the circumstances set out in the Scotland Act 2012, the provisions in the Scotland Act 2016 enable Scottish Ministers to borrow for the following two purposes:

- *to meet current expenditure because of an excess of welfare payments over forecast welfare payments, and;*
- *to meet current expenditure because of a Scotland-specific negative economic shock;*

The Scotland Act 2016 provisions also:

- *increase the Scottish Government's current borrowing limit from £500m to £1.75bn, and;*
- *increase the Scottish Government's capital borrowing limit from £2.2bn to 3bn.*

The Scottish Government's fiscal framework sets out more detail in relation to these borrowing powers.

Steps taken towards implementation since previous report

28. The Scottish Government's new borrowing powers and Scotland Reserve came into effect in April 2017.

29. Following the fiscal framework agreement[3], the Scottish and UK Governments agreed via JEC further detailed arrangements for the Scottish Government's new resource borrowing powers, which include detail on resource borrowing triggers, limits, sources, and draw-down arrangements. The two Governments agreed a Memorandum of Understanding (MoU) for capital borrowing on 5 March 2018, updating the arrangements by which the Scottish Government can borrow from the

[3] https://www.gov.uk/government/publications/the-agreement-between-the-scottish-government-and-theunited-kingdom-government-on-the-scottish-governments-fiscal-framework

National Loans Fund. The Scottish Government have chosen to borrow the full £250m for capital expenditure in 2018-19 from the National Loans Fund, which will be repaid over 10 years.

CHAPTER 6

WELFARE POWERS

Part 3 of the Scotland Act 2016 devolves significant powers relating to welfare benefits and employment support. The provisions in these sections of the Act give the Scottish Parliament greater powers to ensure that welfare provision in Scotland is tailored to local circumstances, while maintaining the benefits of the single jobs market and the UK's ability to pool risks.

Steps taken towards implementation since previous report

30. Following the Social Security (Scotland) Act 2018 receiving Royal Assent on 1 June 2018, the Scottish Government have been setting up their executive delivery agency, Social Security Scotland, to deliver devolved welfare benefits to people living in Scotland.

31. As agreed by the Joint Ministerial Working Group on Welfare, executive competence for devolved welfare powers under the Scotland Act 2016 remains with UK Government until March 2020, unless the Scottish Government wish to take it over before then. This enables the Department for Work and Pensions (DWP) to continue to deliver devolved benefits in Scotland until Social Security Scotland are able to take over delivery responsibility.

32. The Joint Ministerial Working Group also agreed that, if required, agency agreements may be put in place to allow DWP to deliver certain benefits on behalf of the Scottish Government under the same rules and administration as apply to people living in England and Wales, once executive competence transfers.

Implementation

33. Over the last 12 months the UK Government has given significant support to the Scottish Government to enable the delivery of the first Scottish benefits and employment support, which includes:

- Carer's Allowance Supplement - providing data and support in order to enable the Scottish Government to pay an additional payment to those people in receipt of Carer's Allowance and living in Scotland. Executive competence for Carer's Allowance for people living Scotland was transferred to the Scottish Government on 3 September 2018. We agreed that from that date, DWP would continue to pay Carer's Allowance in Scotland under an agency agreement under the same rules and administration as for people in England and Wales.
- Best Start Grant – Providing access to DWP computer systems to administer and pay this benefit (the Scottish replacement for the UK Government's Sure Start Maternity Grant), the first phase of which commenced on 10 December 2018.
- Funeral Expense Assistance – enabling access to DWP computer systems to administer and pay the Scottish replacement for UK Government's Funeral Expenses Payment, which is due to be introduced in the summer of 2019.

34. As we work towards April 2020, many of the people who will be in receipt of a Scottish Government benefit will also continue to be customers of DWP. We continue to work closely with the Scottish Government to ensure safe and secure collaboration. The transfer of the disability benefits for people in Scotland to the Scottish Government in particular presents greater challenge in terms of scale and complexity, and DWP's Scottish Devolution Programme will continue to work closely with the Scottish Government to ensure a smooth and seamless transfer.

35. We must ensure that shared customers are fully supported, both through the transitional process and in the longer term.

Section 27: Welfare Foods

Steps taken towards implementation:

36. In December 2018, the Secretary of State for Scotland signed the ninth commencement regulations to be made in respect of commencement of the Scotland Act 2016. These regulations brought section 27 of the Scotland Act 2016 into force on 8 February 2019, meaning that all sections of the Act that increase the powers of the Scottish Parliament are now in force.

37. The UK Government currently makes provision for welfare foods through the Healthy Start Scheme and the Nursery Milk Scheme. The Healthy Start Scheme provides low-income pregnant women and families with children under the age of four with food vouchers, which can be exchanged for fresh or frozen fruit and vegetables, milk and infant formula milk at registered retailers, and vitamins vouchers, which can be exchanged at NHS outlets or, in Scotland, at some community pharmacies, for free supplies of Healthy Start Vitamins. The Nursery Milk Scheme provides for reimbursement to childcare settings for one-third of a pint of milk per day for children under the age of 5 who are looked after for a prescribed amount of time by approved day care providers.

38. Now that section 27 of the Act is in force, Scottish Ministers may make new schemes (as well as abolish or amend these existing schemes) for the provision of welfare foods in Scotland. The Scottish Government's Best Start Foods scheme will replace the Healthy Start Scheme in Scotland later this year.

39. The Department of Health and Social Care (DHSC) and the Scottish Government are continuing to work closely together to ensure the safe and smooth transfer of power over these important schemes in Scotland. They have agreed an agency arrangement which is now in place, allowing DHSC to administer the schemes in Scotland, on behalf of Scottish Ministers, as part of transitional arrangements.

CHAPTER 7

STEPS TOWARDS IMPLEMENTATION SINCE LAST REPORT - OTHER SECTIONS IN THE ACT

There are a number of other provisions in the Scotland Act 2016 that have effects on the Scottish Government's spending powers, the arrangements for which are covered by the fiscal framework. These include the following provisions:

- *Scottish Parliamentary and local government elections*
- *The Crown Estate in Scotland*
- *Tribunals*
- *Policing of railways*
- *Onshore oil and gas licensing*
- *Consumer advocacy and advice*
- *Fines, forfeitures and fixed penalties*

Section 36: The Crown Estate in Scotland
Steps taken towards implementation:

40. Section 36 (1), (5), (6) and (9) to (12) commenced on 23 March 2016, the day the Act passed. The responsibility for managing Crown Estate assets in Scotland was subsequently transferred to Scottish Ministers on 1 April 2017, via a transfer scheme[4] agreed between the two Governments.

41. Scottish and UK Government officials have been working to agree an MoU in relation to the transfer.

[4] http://www.legislation.gov.uk/ukdsi/2017/9780111155103/contents

Section 39: Tribunals

Steps taken towards implementation:

42. The Scotland Act 2016 provides a statutory mechanism to enable the UK Government to fulfil its commitment to devolve responsibility for the management and operation of functions currently undertaken by reserved tribunals to Scotland.

43. In June 2018, the UK Government provided the Scottish Government with a draft of an Order in Council, which sets out the basis on which the Scottish Parliament may pass legislation to give effect to the transfer of the Scottish functions of reserved tribunals to a Scottish tribunal.

44. The draft Order in Council is a working draft and does not represent a final, agreed position of either the UK Government or the Scottish Government. Both governments have been working together closely to make sure that the responsibility for the management and operation of reserved tribunals can be transferred in a way that delivers on the recommendations of the Smith Commission. The Order in Council is required to be approved by both the UK and Scottish Parliaments and then to be made by Her Majesty in Council.

45. The transfer of tribunal functions will occur in two broad phases. The first phase will consist of the transfer of the employment, tax, social security and child support jurisdictions; and the second phase will transfer all other jurisdictions. The dates for both phases of transfer are still to be determined. The first phase of transfer is unlikely to be before 2021

46. The UK Government and the Scottish Government continue to work through the legislative and operational requirements to implement this measure effectively.

Sections 45-46: Policing of Railways & the British Transport Police

Steps taken towards implementation:

47. Section 45 of the Scotland Act 2016 amends the Scotland Act 1998 to give the Scottish Parliament legislative competence over the policing of railways in

Scotland. Section 46 designates the British Transport Police Authority and senior officers of the British Transport Police force as cross-border public authorities. These sections of the Act were commenced two months after Royal Assent on 23 May 2016.

48. The Railway Policing (Scotland) Act 2017, an Act of the Scottish Parliament to make provision about the arrangements for the Police Service of Scotland to police railways and railway property, received Royal Assent on 1 August 2017. The Act was to be commenced to coincide with the planned integration of the British Transport Police (BTP) in Scotland into Police Scotland on 1 April 2019. However, the Scottish Government took the decision to delay the timetable for integration, pending the outcome of a re-planning exercise to ensure robust delivery plans were in place for all of the key elements of the programme and to establish a new delivery date. In light of that exercise, on 27 August 2018 the Scottish Government's Cabinet Secretary for Justice further announced that all options for providing enhanced accountability to the Scottish Parliament for railway policing in Scotland (short of full integration of the BTP in Scotland into Police Scotland) would be re-considered.

49. A new option is now being developed collaboratively with stakeholders, which would see a new committee established under current legislation to oversee railway policing in Scotland. This would provide both a new line of accountability to the Scottish Parliament in relation to the BTP's activities in Scotland, and an enhanced role for the Parliament in relation to the BTP's strategy and plans for policing the railway in Scotland. It would also remove the need for officers and staff to transfer to Police Scotland, and the need to put in place legislative arrangements to enable working across the two jurisdictions.

Sections 47-49: Onshore petroleum
Steps taken towards implementation:

50. Sections 47-49 of the Act include provisions relating to onshore oil and gas extraction that provide Scottish Ministers with the powers to administer the existing

onshore oil and gas licensing regime in Scotland, and to create a bespoke licensing regime.

51. Commencement regulations (the seventh commencement regulations) were made on 28 November 2017 and section 49 came into force on 29 November 2017.

52. Sections 47 and 48 of the Act were commenced separately, in the eighth commencement regulations, which were made on 6 February 2018 and came into force on 9 February 2018. Sections 47 and 48 could not come into force until other legislation was made under the Scotland Act 2016 (but had not come into force until after sections 47 and 48 were in force) which made certain consequential amendments to taxation legislation to reflect the role of Scottish Ministers as the licensing authority in Scotland, as well as amendments to the licensing regime.

53. An MoU which sets out the agreed arrangements between the Oil & Gas Authority, the Secretary of State and Scottish Ministers in regard to the handling of matters that are reserved to the UK Government was drafted, agreed and signed by the Director of Energy Development and Resilience (Department for Business, Energy and Industrial Strategy), the Director of Corporate and CFO (Oil & Gas Authority) and the Director of Energy and Climate Change (Scottish Government) on 8 November 2018.

Section 50: Consumer Advocacy and Advice
Steps taken towards implementation:

54. Section 50 of the Act transfers responsibility for consumer advocacy and advice in relation to general consumer matters, electricity, gas and postal services to the Scottish Parliament.

55. Section 50 of the Act came into force two months after Royal Assent on 23 May 2016. An additional MoU was intended for consumer advocacy but a draft text was considered not to add anything meaningful to the overarching MoU already in place between the two Governments.

Section 58 – 60: Fuel Poverty and ECO schemes

Steps taken towards implementation:

56. Section 58 of the Act transfers certain powers to Scottish Ministers in relation to support schemes applying to gas and electricity suppliers for the purpose of reducing fuel poverty in Scotland. Sections 59-60 transfers certain powers to Scottish Ministers in relation to obligations (currently the Energy Company Obligation, (ECO)) imposed by the Secretary of State on licensed gas and electricity suppliers to promote reductions in carbon emissions or home-heating costs in Scotland.

57. Commencement regulations (the seventh commencement regulations) were made on 28 November 2017 and sections 58-60 came into force at difference dates for different purposes. Sections 58-60 will come fully into force at the expiry of the respective current legislation for the fuel poverty support scheme (the Warm Home Discount) and for ECO. As a Scottish Supplier Obligation framework will continue to operate within the context of the single GB energy market, the UK Government and Scottish Government will continue to work together to underpin operational delivery of all schemes.

Section 67: Fines, Forfeitures and Fixed Penalties

Steps taken towards implementation:

58. Section 67 of the Act gives the Secretary of State the power to amend, with Treasury consent, any primary legislation requiring or authorising the payment of relevant fines, forfeitures and fixed penalties into the UK Consolidated Fund, so that these payments are required or authorised to be paid instead in to the Scottish Consolidated Fund. The necessary regulations were made on 5 December 2016 to commence this power from 1 April 2017.

59. HM Treasury made the Scotland Act 1998 (Designation of Receipts) (Amendment) Order 2017, which updated the 2009 Order to remove fines, forfeitures and fixed penalties collected in Scottish courts from the specified designated receipts that

Scottish Ministers would be required to pay to the Secretary of State for Scotland, thus enabling the Scottish Government to retain this income from 2017-2018. The Order was laid in the UK Parliament on 14 December 2017 and came into force on 31 March 2018. The following Chapter sets out the effect of the new powers on the Scottish block grant.

CHAPTER 8

EFFECT OF NEW POWERS ON THE SCOTTISH BLOCK GRANT

The UK and Scottish Governments agreed a fiscal framework for the Scottish Government in February 2016 to underpin the funding arrangements for their new tax and welfare powers.

This sets out how the Scottish Government's block grant should be adjusted to reflect these powers – with the necessary deductions for new revenue raising powers, and additions for new spending powers. The framework sets out the agreed approach for block grant baseline adjustments and on-going indexation mechanisms for all taxes, court revenues, and welfare payments being devolved or assigned in Scotland.

These arrangements are being implemented alongside the Scotland Act 2016 powers. The UK Government committed to publishing an annual breakdown of all the changes to the devolved administrations' block grant funding at the Autumn Budget 2017.

Steps taken towards implementation since previous report

Revenue raising powers

60. The UK Government set the Scottish Government's block grant adjustments at Budget 2018, to reflect devolved tax and court revenues. These are set out in the table below:

£m		2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Income Tax	Baseline deduction	10,719					
	Comparable model adjustment		11,790	11,807	11,582	12,200	12,620
	IPC model adjustment		11,750	11,749	11,501	12,089	12,478
Fines, Forfeitures and Fixed Penalties	Baseline deduction	25					
	Comparable model adjustment		27	27	27	27	28
	IPC model adjustment		27	27	27	27	27
Proceeds of Crime	Baseline deduction	4					
	Comparable model adjustment		4	4	4	4	4
	IPC model adjustment		4	4	4	4	4

62. As agreed in the fiscal framework, the adjustments consist of a baseline deduction (based on revenues collected in Scotland in the year prior to devolution); and then a subsequent indexation for future years, based on changes in corresponding UK Government revenues.

63. The table above sets out the results of indexation using both the Comparable and Indexed Per Capita (IPC) Models. The adjustments applied to the Scottish Government's block grant will reflect the results of the IPC Model for a transitional period, until the fiscal framework is reviewed in 2021.

64. In line with paragraph 100 of the fiscal framework, the block grant adjustment for Proceeds of Crime has not been updated following Autumn Statement 2016.

65. The UK Government also set the Scottish Government's 2019-20 block grant adjustments for Landfill Tax and Stamp Duty Land Tax at Budget 2018. These adjustments are set out in the second half of this report, under 'Effect of new powers on the Scottish Government's block grant', as they relate to Scotland Act 2012 powers.

66. In September 2018, the UK and Scottish Governments agreed via the JEC (Officials), that the indexation for calculating the Scottish Government's Income tax block grant adjustment will be revised to reflect the devolution of the Welsh Rates of Income Tax in 2019-20. The Welsh Government have agreed to maintain the same income tax rates during the first year of devolution in 2019-20 to determine the baseline position in Wales, which means the indexation method for the Scottish Government's block grant adjustment in 2020-21 can be altered.

67. The OBR forecast the Scottish share of UK VAT receipts at Budget 2018 as an indication of revenues the Scottish Government will retain and the size of the offsetting baseline adjustment that will be applied to the Scottish Government's block grant. The fiscal framework sets out that the adjustment will be made in 2020-21, following a transitional year in 2019-20.

68. To note, the figures in this report reflect the block grant adjustments that were applied to the Scottish Government's budget at Budget 2018. The block grant adjustments were recalculated at Spring Statement 2019 to reflect the latest forecast data, however will not be applied to the Scottish Government's block grant but may be used to inform spending plans.

69. The block grant adjustments for Air Passenger Duty and Aggregates Levy will be dependent on the devolution dates agreed for each tax, and are currently not calculated or applied to the Scottish block grant.

<u>Welfare powers</u>

70. The block grant adjustments for welfare devolution are dependent on the dates agreed for the transfer of executive competency to the Scottish Government for each power.

71. In September 2018, Carer's Allowance was the first welfare power to be devolved to the Scottish Government. As it is an Annual Managed Expenditure (AME) benefit, the funding transfer was calculated and applied at Budget 2018 using a block grant adjustment. The process was agreed at the official-level JEC meeting in September 2018 and the figures set out in the table below:

		2017-18	2018-19*	2019-20	2020-21	2021-22
Carers Allowance	Baseline addition	249				
	Comparable model adjustment		157	289	306	327
	IPC model adjustment		157	290	307	328

**mid-year adjustment applied for September 2018 – March 2019*

72. In December 2018, Sure Start Maternity Grant was devolved to the Scottish Government. The funding for the remainder of the Spending Review period was transferred via a Machinery of Government transfer directly to the Scottish Government from DWP's Departmental Expenditure Limits (DEL) budget.

73. The Barnett formula will be applied to changes in DWP DEL for subsequent years.

Other areas of spend

74. For all other areas of spend being devolved in the Scotland Act 2016, the usual machinery of government approach will be applied to calculate the baseline additions to the Scottish Government's block grant. The Barnett formula will subsequently be applied in the normal way. Baseline transfers for tribunals devolution are yet to be agreed, and will be dependent on the respective dates for transfer of executive competence.

Crown Estate

75. The UK and Scottish Governments have now agreed a final block grant adjustment for Crown Estate and Coastal Communities Fund devolution.

76. This comprised of a block grant addition for Coastal Communities Fund (as set out in the previous implementation report); and a block grant deduction for Crown Estate (equivalent to the net revenues raised by Scottish assets in 2016-17, minus the cost of managing these assets). This has now been updated to reflect outturn data for 2016-17.

77. As agreed in the fiscal framework, this adjustment will not be indexed in future years.

Administration and implementation costs

78. As agreed in the fiscal framework, the UK Government will make a one-off non-baselined transfer of £200m to the Scottish Government to cover their implementation costs, and a baseline transfer of £66m to cover their ongoing administration costs as they take on new powers.

79. The UK Government has now transferred the full £200m for implementation funding. For ongoing administration funding, alongside agreeing the timetable for

the transfer of powers, the UK Government agreed to transfer £37m in 2018-19, £59m in 2019-20, and the full £66m from 2020-21 onwards, which will be indexed using the normal application of the Barnett formula.

Block grant transparency

80. At Autumn Budget 2017, the UK Government committed to publish an annual breakdown of the changes to the devolved administrations' block grant funding each year. This includes the changes to the Scottish Government's block grant set out above, reflecting Scotland Act 2012 and 2016 powers. The second breakdown was published on 20 December 2018.

CHAPTER 9

OTHER ACTIVITIES TOWARDS IMPLEMENTATION OF THE FISCAL FRAMEWORK

Spillover effects

81. The fiscal framework sets out agreement on the treatment of financial spillover effects from either Governments' policy decisions, for both direct and behavioural effects.

82. The fiscal framework states that all direct effects should be accounted for. The UK and Scottish Governments have agreed via JEC the following principles in relation to direct effects for tax and welfare:
    - A direct effect is defined as an automatic change in one Government's expenditure or revenue as a result of a change in another Government's policy.
    - Direct effects exclude any effects that do not occur as a result of the mechanics of a policy decision and any associated behavioural changes.
    - Any automatic change is considered a direct effect and will need to be accounted for. For welfare, an automatic change to the number of eligible claimants as a result of a policy decision would be considered a direct effect.
    - In some cases, there may also be behavioural changes that occur alongside automatic changes (for instance, more people might be incentivised to claim a benefit following a policy change). In such cases, UK and Scottish Government analysts should seek to separate the direct effect from any behavioural assumptions, as far as possible, when calculating the effect. Any consideration of behavioural effects will be subject to the criteria set out in the fiscal framework and spillovers process for behavioural effects, which remains to be agreed.

83. The UK and Scottish Governments have also agreed via JEC a process to account for direct spillover effects for tax and welfare. This will allow either Government to

raise any direct effects on their receipts or expenditure from the other Government's tax and welfare policy decisions; and provides a joint forum for these to be calculated and agreed between both Governments, before subsequent transfers can be agreed via JEC.

84. Both Governments have agreed to test the process from January 2018, for any direct effects that arise from UK and Scottish Government tax and welfare policy decisions in 2018-19. This will subsequently be reviewed in 2019-20.

85. Both Governments have agreed that the above process for direct tax and welfare spillover effects will be without prejudice to how issues may need to be accounted for in other policy areas under the 'no detriment' principle.

86. UK and Scottish Government officials are working together to agree further detail on a process for both Governments to account for behavioural spillover effects, which will also be finalised via JEC.

Audit and accountability

87. As set out in last year's report, UK and Scottish Government officials have been working together to develop an audit and accountability framework for the exercise of powers devolved to the Scottish Parliament. This sets out lines of accountability for UK and Scottish public bodies to each Parliament.

88. UK and Scottish Government officials engaged the National Audit Office and Audit Scotland to inform further detail on auditing arrangements in the framework.

89. This framework has now been agreed and published by both Scottish[5] and UK Governments[6]. It has been considered by the Public Audit and Post-Legislative Scrutiny Committee in the Scottish Parliament and has also been communicated to the Public Accounts Committee of the UK Parliament.

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[5] https://www.gov.scot/publications/scottish-devolution-framework-audit-accountability/

[6] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783936/Framework_for_audit_and_accountability__002_.pdf

Scottish Fiscal Commission

90. The Scottish Fiscal Commission (SFC) produced its second Scottish economic forecast at the Scottish Government's draft budget in December 2018, alongside forecasts for Scottish Government tax receipts.

Information sharing

91. The UK and Scottish Governments agreed in the fiscal framework that appropriate and reciprocal information-sharing agreements will be put in place to enable both Governments (as well as the OBR and SFC) to undertake their respective responsibilities. UK Government officials continuing to engage with the Scottish Government, SFC, and the OBR to develop a shared understanding of the information and data required by each Government for these responsibilities. This should enable them to agree which data-sharing agreements are the most suitable to put in place for relevant tax and welfare responsibilities, including the use of legal gateways where needed.

PART 2: SCOTLAND ACT 2012

CHAPTER 1

INTRODUCTION

Scope and Content of this Report

92. This report on Part 3 of the Scotland Act 2012 is the seventh published since the Act received Royal Assent on 1 May 2012. This section of the report covers the Scotland Act 2012. Information relating to the Scotland Act 2016 can be found in Part 1 of this report.

93. Part 3 of the Scotland Act 2012 deals exclusively with the devolution of financial powers. These include:
    - the creation of a new Scottish rate of Income Tax;
    - the disapplication of UK Stamp Duty Land Tax in Scotland and provision for the introduction of a new Scottish tax on land transactions;
    - the disapplication of UK Landfill Tax in Scotland and provision for the introduction of a new Scottish tax on disposals to landfill;
    - provision for borrowing by Scottish Ministers; and
    - the power to create new devolved taxes.

94. The financial provisions implemented over a number of years, in line with the timetable set out in the Command Paper which accompanied the publication of the Scotland Bill in November 2010, to ensure that appropriate transitional arrangements are put in place. In order that both the UK and Scottish Parliaments are fully informed through this process, section 33 of the Scotland Act 2012 requires the Secretary of State for Scotland and Scottish Ministers to report annually on the implementation of this part of the Act.

95. Both Parliaments are therefore sighted on the views of both administrations: the Secretary of State for Scotland is required to report to the UK Parliament and provide a copy to Scottish Ministers who are required to lay it before the Scottish Parliament; and Scottish Ministers are required to report to the Scottish Parliament

and provide a copy to the Secretary of State, who is required to lay it before both UK Houses of Parliament. Both Governments will continue to report until April 2020, or the first anniversary of the day on which the last provisions of Part 3 come into force, if that is after April 2020.

96. Section 33(5) of the Scotland Act 2012 requires the annual report to contain:
    - *a statement of the steps which have been taken, whether by the maker of the report or by others, since the making of the previous report (or, in the case of the first report, since the passing of this Act) towards the commencement of the provisions of this Part;*
    - *a statement of the steps which the maker of the report proposes should be taken, whether by the maker of the report or by others, towards the commencement of the provisions of this Part;*
    - *an assessment of the operation of the provisions of this Part which have been commenced;*
    - *an assessment of the operation of any other powers to devolve taxes to the Scottish Parliament or to change the powers of the Scottish Ministers to borrow money, and of any other changes affecting the provisions inserted or amended by this Part;*
    - *the effect of this Part on the amount of any payments made by the Secretary of State under section 64(2) of the 1998 Act (payments into the Scottish Consolidated Fund); and*
    - *any other matters concerning the sources of revenue for the Scottish Administration (within the meaning of section 126(6) of the 1998 Act) which the maker of the report considers should be brought to the attention of the Parliament of the United Kingdom or the Scottish Parliament.*

97. Annex A provides a detailed list of the paragraphs in the report which address each of these requirements. However, the report is not limited to these requirements, and can also contain any other matters that each Government believes to be relevant or useful to both Parliaments.

CHAPTER 2

SCOTTISH RATE OF INCOME TAX

For the 2016-17 tax year, the main UK rates of Income Tax were reduced by 10 pence in the pound for those identified as Scottish taxpayers. The Scottish Parliament set, in its annual budget, the Scottish Rate of Income Tax to be added to the reduced UK rates. The Scottish block grant was adjusted to reflect this change in funding steams. Scottish Rate of Income Tax was superseded, for 2017-18 and subsequent tax years, by the further Scottish income tax powers devolved by the Scotland Act 2016.

Steps taken towards implementation since previous report

98. The project to deliver Scottish Rate of Income Tax (SRIT) changes has now been implemented. The work required to complete changes to Relief at Source is expected to complete in 2019/2020. As the SRIT was superseded, for the 2017-18 and subsequent tax years, by the further Scottish income tax powers devolved by the Scotland Act 2016, costs for 2018-19 and all other income tax updates are covered in Part I, Chapter 3 of this report.

CHAPTER 3

BORROWING POWERS OF SCOTTISH MINISTERS

The provisions in the Scotland Act 2012 have enabled Scottish Ministers to borrow for three purposes from April 2015:

- *to deal with deviations between forecast and actual revenues, in addition to operating a cash reserve, Scottish Ministers can borrow up to £200m each year within a statutory limit of £500m. Loans will be for a maximum of 4 years;*
- *to deal with temporary in-year shortfalls between receipts and expenditure, Scottish Ministers can borrow to provide the Scottish Consolidated Fund with an appropriate cash working balance. Note that a similar facility existed under the Scotland Act 1998; and*
- *for capital investment, Scottish Ministers can borrow up to an additional 10% of the Scottish Government's capital DEL budget each year within a statutory limit of £2.2bn. Loans will be usually for a maximum of ten years but with the option of a longer period in line with the expected life of the asset.*

Steps taken towards implementation since previous report

99. The Scotland Act 2012 borrowing powers have been in operation since April 2015, in which month loan agreements between the Treasury, Office of the Secretary of State for Scotland and the Scottish Government were put into place for capital and resource borrowing from the National Loans Fund.

100. As set out in Part 1, Chapter 5, the Scottish Government have been able to operate additional borrowing powers from April 2017.

101. The amount held in the Scottish Reserve at the end of each financial year is set out below.[7]

£m (1dp)	Resource	Capital	Financial Transactions - Capital	Total
2015-16	74.2	0.0	0.0	74.2
2016-17	184.4	35.3	51.8	271.5
2017-18	440.1	86.4	11.4	538.0
2018-19	190.1	86.4	11.4	288.0

[7] The amount held in the reserve in 2018-19 as at Supplementary Estimates for 2018.

CHAPTER 4

POWERS TO DEVOLVE FURTHER EXISTING TAXES AND CREATE NEW DEVOLVED TAXES

With the agreement of both Governments, further existing taxes can now be devolved and the Scottish Parliament is able to introduce new Scotland-specific taxes. These powers support the on-going evolution of devolved responsibilities, and provide the Scottish Parliament with a new means of achieving policy outcomes, as well as potentially raising additional revenues.

Steps taken towards implementation since previous report

102. This power came into force under section 25 on the same date as the Scotland Act 2012, 1 May 2012. To date, neither the Scottish Government nor the UK Government has put forward proposals to create new devolved taxes under this power.

CHAPTER 5

EFFECT OF NEW POWERS ON THE SCOTTISH BLOCK GRANT

Since devolution in 1999, the Scottish Parliament has had almost complete flexibility over how it spends its income, the bulk of which has been provided in a block grant determined by the Barnett formula. As set out in the Command Paper published alongside the Scotland Bill in 2011, a fundamental principle of tax devolution is that an element of the block grant is exchanged for the ability to levy taxes. In 2016 the UK and Scottish Governments, through the Joint Exchequer Committee, agreed updated block grant funding arrangements (though to 2021-22) as part of the Scottish Government's new fiscal framework.

Steps taken towards implementation since previous report

103. As set out in Part 1, Chapter 8, the UK Government adjusted the Scottish Government's block grant at Budget 2018 for Landfill Tax and Stamp Duty Land Tax devolution, in line with the arrangements agreed in the fiscal framework. The adjustments are set out in the table below:

£m		2014-15	2017-18	2018-19	2019-20	2020-21	2021-22
Stamp Duty Land Tax	Baseline deduction	468					
	Comparable model adjustment		588	551	574	604	642
	IPC model adjustment		584	546	567	596	632
Landfill Tax	Baseline deduction	149					
	Comparable model adjustment		114	105	93	85	83
	IPC model adjustment		113	104	91	83	81

104. As for the Scotland Act 2016 powers, the figures in this report reflect the block grant adjustments that were applied to the Scottish Government’s budget at Budget 2018. The block grant adjustments were recalculated at Spring Statement 2019 to reflect the latest forecast data, however will not be applied to the Scottish Government’s block grant but may be used to inform spending plans.

CHAPTER 6

OTHER REPORTING REQUIREMENTS

105. Section 33 of the Scotland Act 2012 requires annual reports on Part 3 of the Act to include:

- an assessment of the operation of the provisions of Part 3 which have been commenced;
- an assessment of the operation of any other powers to devolve taxes to the Scottish Parliament or to change the powers of the Scottish Ministers to borrow money, and of any other changes affecting the provisions inserted or amended by this Part; and
- any other matters concerning the sources of revenue for the Scottish Administration (within the meaning of section 126(6) of the 1998 Act) which the maker of the report considers should be brought to the attention of the Parliament of the United Kingdom or the Scottish Parliament.

106. This report is the seventh following the passage of the Act in May 2012. It should be noted that, in accordance with section 44(2)(b) of the Act, all provisions of Part 3 came into force two months after the passing of the Act itself, with the exception of section 25(7) (and Schedule 2) - Scottish rate of Income Tax: consequential amendments - and section 32 - borrowing by Scottish Ministers. Section 32 came into force on 12 December 2014.

107. Since 1 April 2015, Stamp Duty Land Tax (SDLT) and Landfill Tax have been replaced in Scotland by Land and Buildings Transaction Tax (LBTT) and the Scottish Landfill Tax respectively, which are both administered by Revenue Scotland. Throughout 2017 HMRC and Revenue Scotland have continued to collaborate and to explore opportunities for sharing data between the tax authorities to aid compliance activity across the UK.

108. In the December 2017 Draft Budget, the Scottish Government proposed to maintain the residential and non-residential rates and bands for Land and Building Transaction Tax (LBTT) at 2017-18 levels and announced a new relief for first time

buyers of properties over £175,000 to be introduced in 2018-19. The Draft Budget also announced that Standard Rate of Scottish Landfill Tax (SLfT) would be increased to £88.95 per tonne and the Lower Rate of SLfT to £2.80 per tonne in line with retail price index inflation and Landfill Tax charges in the rest of the UK.

109. The Scotland Act 2016, which enacts the cross-party Smith Commission Agreement, devolves responsibility to the Scottish Parliament for the setting of income tax rates and thresholds for earned income. This includes the ability to introduce new bands. The Act also devolves Air Passenger Duty and Aggregates Levy, and provides that a proportion of the VAT that is attributable to Scotland may be assigned to the Scottish Government's budget. The Act provides that the first ten percentage points of the standard rate of VAT and the first 2.5 percentage points of the reduced rate of VAT will be assigned to the Scottish Government's budget. Information outlining progress made to implement the Scotland Act 2016 over the last year is in Part 1 of this report.

CONCLUSION

110. Section 33 of the Scotland Act 2012 stipulates that the Annual Report on the implementation and operation of Part 3 of that Act should be laid on or before the anniversary of the date on which Royal Assent was received, which is 1 May. This year's report was laid before Parliament in April 2019.

111. The past year has seen significant progress on the Scotland Act 2016, with all sections of the Act which increase the powers of the Scottish Parliament now in force.

112. The next Annual Report on the implementation of Part 3 of the Scotland Act 2012, and the implementation of the Scotland Act 2016, will be published, in accordance with section 33(3)(b) of the Scotland Act 2012, before 1 May 2020.

Annex A – Reporting requirements in the Scotland Act 2012 and where they are addressed in this report

1. *A statement of the steps which have been taken, whether by the maker of the report or by others, since the making of the previous report (or, in the case of the first report, since the passing of this Act) towards the commencement of the provisions of this Part,*

    Part 2, Chapter 2: Paragraph 98

    Part 2, Chapter 3: Paragraphs 99-101

    Part 2, Chapter 4: Paragraph 102

    Part 2, Chapter 5: Paragraphs 103-104

2. *A statement of the steps which the maker of the report proposes should be taken, whether by the maker of the report or by others, towards the commencement of the provisions of this Part,*

    Part 2, Chapter 2: Paragraph 98

3. *An assessment of the operation of the provisions of this Part which have been commenced,*

    Part 2, Chapter 6

4. *An assessment of the operation of any other powers to devolve taxes to the Scottish Parliament or to change the powers of the Scottish Ministers to borrow money, and of any other changes affecting the provisions inserted or amended by this Part,*

    Part 1, and Part 2, Chapter 6

5. *The effect of this Part on the amount of any payments made by the Secretary of State under section 64(2) of the 1998 Act (payments into the Scottish Consolidated Fund),*

    Part 1, Chapter 8 and Part 2, Chapter 5

6. *Any other matters concerning the sources of revenue for the Scottish Administration (within the meaning of section 126(6) of the 1998 Act) which the maker of the report considers should be brought to the attention of the Parliament of the United Kingdom or the Scottish Parliament.*

    Part 1, and Part 2, Chapter 6

Annex B – Reporting requirements in the Fiscal Framework and where they are addressed in this report

1. *Action taken towards commencement of the provisions*

    Part 1, Chapter 2

    Part 1, Chapter 3

    Part 1, Chapter 4

    Part 1, Chapter 5

    Part 1, Chapter 6

    Part 1, Chapter 7

2. *An assessment of the operation of provisions which have been commenced*

    Part 1, Chapter 2

    Part 1, Chapter 3

    Part 1, Chapter 4

    Part 1, Chapter 5

    Part 1, Chapter 6

    Part 1, Chapter 7

3. *An assessment of the operation of any other powers to devolve taxes or to change the powers of Scottish Ministers to borrow and any other changes affecting the finance provisions inserted or amended by the Act*

    Part 1, Chapter 3

    Part 1, Chapter 4

    Part 1, Chapter 5

4. *The effect on payments into Scottish Consolidated Fund*

   Part 1, Chapter 8

5. Any other matters concerning sources of revenue for the Scottish Administration which should be brought to the attention of both Parliaments

   Part 1

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