

SIXTH ANNUAL REPORT ON THE IMPLEMENTATION OF THE SCOTLAND ACT 2016

April 2022



Sixth 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 2022



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FOREWORD



This report marks six years since the Scotland Act 2016 received Royal Assent, and shows the UK Government delivering on the recommendations of the Smith Agreement in full.

The Scottish Parliament can legislate in every area where the Scotland Act 2016 has given it power to do so, making the Scottish Parliament one of the most powerful devolved legislatures in the world. Powers which include the ability to set rates and bands of income tax, 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 the management of the Crown Estate.

Progress this year has continued. The UK Government has worked closely with the Scottish Government to ensure the successful introduction of the Scottish Government's first replacement disability benefit, Child Disability Payment, in November 2021. The two Governments have also worked together on the implementation of the Scottish Government's Adult Disability Payment, which began its pilot in March 2022 and will be introduced across Scotland in the summer. The UK Government remains committed to working with the Scottish Government to manage a safe and secure transfer of powers.

THE RT HON. ALISTER JACK MP
SECRETARY OF STATE FOR SCOTLAND

CHAPTER 1

INTRODUCTION

Scope and Content of this Part

1. This report on the Scotland Act 2016 is the sixth 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 levy;
 - devolution of aggregate levy;
 - 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 relating to 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. The report also provides an update on:
 - implementing policing of railways in Scotland;
 - licensing of onshore petroleum;
 - tribunals;
 - consumer advocacy and advice
4. The fiscal framework was published on 25 February 2016¹. On 15 March 2016 the Scottish and UK Governments published a further annex². The fiscal framework sets out the agreement between the Scottish Government (SG) and the UK Government (UKG), consistent with the principles contained in the Smith Commission Agreement and including a number of elements which will be covered by this report, including:
 - a. block grant adjustments for taxation and welfare;
 - b. administration and implementation costs;

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/503481/fiscal_framework_agreement_25_feb_16_2.pdf

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/508102/Fiscal_Framework_-_Text_-_Annex_to_the_fiscal_framework_-_15th_March_2016....pdf

- c. spillover effects;
 - d. borrowing; and
 - e. scrutiny.
5. The fiscal framework outlines the reporting requirements for the Scotland Act 2016, that both the UKG and the SG 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 the UK and Scottish Parliaments.

CHAPTER 2

IMPLEMENTATION PROGRESS

6. Since February 2019, all sections of the Scotland Act 2016 which increase the powers of the Scottish Parliament are now in force:

| Section | Section Title | Date of commencement |
|-------------------------------------|---|----------------------|
| Part 1: Constitutional Arrangements | | |
| 1 | Permanence of the Scottish Parliament and the SG | 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 |

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|-----------------|--|---|
| 17 | Tax on carriage of passengers by air | 23 May 2016 Provision will take effect at a time agreed by the UKG and the SG. |
| 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. SI 2018/1138 closed off access to Sure Start Maternity Grant for people in Scotland as the SG introduced their replacement Best Start Grant from 10 December 2018. SI 2019/1060 closed off access to the Funeral Expenses Payment for people in Scotland as the SG introduced their replacement Funeral Support Payment from 16 September 2019. |

| | | |
|---------------------------------------|---|---|
| | | On 28 March 2022, SI 2022/409 amended the date in section 23(5), in order that the closure of the Social Fund in relation to heating expenses is delayed to 1 April 2023. |
| 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 Legislatives Competence | | |
| 36 | Crown Estate | 36 (1), (5), (6), (9), (10), (11), (12) on 23 March 2016. |
| 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: Consequential amendments | 9 February 2018 |
| 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 1 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 then all remaining sections have been commenced and all sections of the Scotland Act 2016 have been in force since February 2019.
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. This report sets out the latest agreement between both governments where these powers are yet to be implemented.

Governance

9. The Scotland Act 2016 Implementation Board was set up after Royal Assent as the overseer of implementation across the whole Act within the UKG. The Board is chaired by the Deputy Director for Constitutional Policy at the Scotland Office and attended by UKG departments with policies covered in the Act.
10. The Board meets biannually to monitor progress on implementation. It supplements governance structures within UKG departments that exist to implement the provisions in the Scotland Act 2016 and transfer responsibilities to the Scottish Parliament and the SG.

CHAPTER 3

INCOME TAX

Since 6 April 2017, the Scottish Parliament has had the power to set the income 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 the 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 UKG and the SG in 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. Following decisions made for the 2017-18 and 2018-19 tax years, Scotland has different income tax rates, bands and thresholds to the rest of the UK.³
12. On 9 December 2021, the SG announced its planned income tax rates and bands for 2022-23 in the Scottish Budget 2022-2023. The plans were considered by the Scottish Parliament, and on 2 February 2022 the Scottish Parliament passed a Scottish Rate Resolution to set the rates and bands that will apply to Scottish non-savings, non-dividend taxable income for 2022-23. There are no changes to the five-band structure or rates. The starter and basic rate bands will increase by inflation. The higher and top rate threshold will remain frozen in cash terms at £43,662 and £150,000 respectively.

| | | |
|---------------------------------------|-----------------------|-------|
| ● Over £12,570 ⁴ - £14,732 | ● Starter Rate | ● 19% |
| ● Over £14,732 - £25,688 | ● Scottish Basic Rate | ● 20% |
| ● Over £25,688 - £43,662 | ● Intermediate Rate | ● 21% |

³ Information on the rates and bands that apply in Scotland is available on www.gov.uk

⁴ This assumes that individuals are in receipt of the Standard UK Personal Allowance.

| | | |
|---|---|---|
| <ul style="list-style-type: none"> Over £43,662 - £150,000⁵ | <ul style="list-style-type: none"> Higher Rate | <ul style="list-style-type: none"> 41% |
| <ul style="list-style-type: none"> Over £150,000⁶ | <ul style="list-style-type: none"> Top Rate | <ul style="list-style-type: none"> 46% |

Governance

13. A Scottish Income Tax Board, comprising members from HM Revenue and Customs (HMRC), HM Treasury (HMT) and the SG, meets quarterly to ensure HMRC meets the operational obligations set out in its Service Level Agreement with the SG.

Taxpayer identification

14. The Scottish tax paying population is not static, people move to and from Scotland and people become or cease to be taxpayers for a variety of reasons. HMRC takes a number of steps to ensure the ongoing accuracy of the Scottish taxpayer population, including:

- performing scans of HMRC address data to correct missing or partial postcodes;
- carrying out regular updates of the postcode information held by HMRC, including adding new Scottish postcodes to its list of Scottish postcodes;
- continuing to corroborate HMRC customer records with a range of third-party data sources; and
- issuing communications to remind taxpayers to notify HMRC of any change of address.

Costs

15. HMRC estimates the overall cost it has charged the SG for implementing Scottish income tax powers to be £24.3 million. The powers are defined by a combination of provisions in the Scotland Act 2012 and Scotland Act 2016 and implementation costs cannot be apportioned specifically to an individual Act. The implementation project was completed in 2019-20. The costs of altering systems and processes in the future, for example to accommodate changes to rates and thresholds, will be recharged to the SG.

⁵ those earning more than £100,000 will see their Personal Allowance reduced by £1 for every £2 earned over £100,000.

⁶ Ibid.

16. In 2020-21 HMRC invoiced the SG £720,224 for costs associated with operating Scottish income tax. Final figures for 2021-22 are not yet available. HMRC and the SG have agreed invoice charges of £417,695 for quarters 1, 2 and 3 of 2021-22. At the time of writing, HMRC's latest forecast for the total costs for 2021-22 is £599,239.

CHAPTER 4

OTHER TAX POWERS & FISCAL PROVISIONS

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

The Act also makes provision for the assignment of VAT receipts. The SG 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 UKG and the SG have agreed that how and when VAT assignment is implemented will be established as part of the upcoming review of the fiscal framework. HMRC's Scottish Tax Devolution Programme Board will directly oversee the transition of these other tax powers.

Steps taken towards implementation since previous report

Air Passenger Duty

17. The SG 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. While some provisions came into force on Royal Assent, the majority of the provisions of this Act will come into force by regulations on the day appointed by Scottish Ministers. This has not yet happened.

18. In November 2017, the UKG and the SG 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 SG and the UKG are working closely to deliver the powers when possible. As agreed, the UKG will maintain the application of Air Passenger Duty in Scotland in the interim. HMRC has worked closely with both the SG 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.

Assignment of VAT

19. In November 2018, the UKG and the SG 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).

20. The JEC has agreed that the Scottish Fiscal Commission will be responsible for producing the forecasts for VAT assignment. The Office for Budget Responsibility will continue to produce VAT forecasts for the whole UK, which will be used to inform the block grant adjustments.
21. As part of the fiscal framework agreement, the UKG and the SG agreed to share equally all costs incurred as a result of the implementation and administration of VAT assignment.
22. Accurate implementation of VAT Assignment relies on consumer surveys. Consumer surveys from 2020 will not be representative primarily due to the significant impact that the COVID-19 pandemic has had on VAT revenues. Both governments remain committed to implementing what was agreed as part of the Smith Commission following the 2014 independence referendum, and the Scotland Act 2016. However, the UKG and the SG have agreed to establish how and when VAT Assignment is implemented as part of the review of the SG's fiscal framework.

Aggregate Levy

23. The JEC will agree on a suitable point for the implementation of the devolution of the Aggregates Levy.

CHAPTER 5

BORROWING POWERS

The Scotland Act 2016 provides the SG 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:

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

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

Steps taken towards implementation since previous report

24. The SG's borrowing powers and Scotland Reserve came into effect in April 2017. The SG has borrowed £319 million for resource expenditure and £150 million for capital expenditure in 2021-22.
25. The SG has set out its borrowing plans for 2022-23 in its Budget on 9 December 2021⁷, including £15 million for resource expenditure and £450 million for capital expenditure.
26. The Scottish Fiscal Commission's January 2021 forecast confirmed that a Scotland-specific economic shock was triggered in 2021-22. They also confirmed this is likely caused by the different timings of published forecasts, rather than a genuine disproportionate shock to the Scottish economy.
27. As a result of this Scotland-specific economic shock, and in line with the agreed fiscal framework, the UKG has doubled the SG's borrowing limit from £300 million to £600 million for 2021-22 and the two subsequent financial years. This extra borrowing can be used for any forecast or observed tax shortfall or increase in welfare spending. In addition, the annual drawdown limits for the Scotland Reserve (£250m for resource; £100m for capital) will be waived for the same three-year period.

⁷ https://www.fiscalcommission.scot/wp-content/uploads/2021/12/Scotland_s-Economic-and-Fiscal-Forecasts-December-2021-Full-report.pdf

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

28. The Department for Work and Pensions (DWP) continues to support the SG and Social Security Scotland on the implementation of devolved social security powers. DWP continues to provide existing benefits on behalf of the SG whilst the SG builds its capacity and capability to administer its replacement benefits.
29. The SG has revised its delivery timeline, taking account of challenges raised due to COVID-19. It introduced the first of its disability benefits Child Disability Payment, which replaced Disability Living Allowance for Children. This started with a pilot in July 2021 in three Scottish local authority areas, followed by national introduction across Scotland in November 2021. Existing Scottish cases for people in receipt of Disability Living Allowance for children began to be transferred to Social Security Scotland from October 2021 and DWP continues to work with SG officials to complete the transfer of all remaining cases. DWP also provided support for the SG's extension to the Child Winter Heating Assistance to cover those under age 19 in receipt of Personal Independence Payment.
30. DWP ministers agreed that on its introduction, Child Disability Payment will act as a qualifying benefit for the purposes of additional amounts within reserved income-related benefits as well as the Christmas Bonus and the UKG has undertaken the necessary legislative changes to enable this⁸. HMT ministers agreed that Child Disability Payment should be treated in the same way as Disability Living Allowance to attract premiums on tax credits and tax-free childcare and the UKG legislated to enable this and to put in place relevant tax exemptions⁹.
31. DWP has worked closely with the SG regarding its delivery plans for Adult Disability Payment, which is replacing Personal Independence Payment, with a pilot which began on 21 March 2022. The UKG has worked to ensure the necessary changes, covering systems, process and legislation is in place to

⁸ www.legislation.gov.uk/uksi/2021/1301/made

⁹ <https://www.legislation.gov.uk/uksi/2021/1301/made>

enable the SG to achieve its planned delivery timetable. HMRC has also made changes to its processes and systems to identify and interact with the new Scottish benefits, ensuring its customers receive their correct entitlement of tax-free childcare and tax credits.

32. As agreed between DWP and the SG, the Social Fund Cold Weather Payments and Winter Fuel Payments also remained open to those living in Scotland for winter 2021/22. DWP has been working with the SG on its plans to replace these and the proposed timetable.

Section 27: Welfare Foods

Steps taken towards implementation since previous report

33. The UKG administered the Nursery Milk Scheme in Scotland on behalf of Scottish Ministers under an agency agreement until 1 August 2021, when the SG's devolved Scottish Milk and Healthy Snack Scheme was launched. The UK Nursery Milk Scheme has therefore closed to all Scottish childcare settings, who must instead apply to the Scottish scheme and meet its eligibility requirements.
34. The Department for Health and Social Care and the SG worked closely together, agreeing a revised agency agreement to support appropriate transitional arrangements. This included provision for Scottish childcare settings registered with the UK Nursery Milk Scheme before 1 August 2021 to continue to submit valid claims for milk provided in Scotland on or before 31 July 2021 for reimbursement as usual.
35. As of 31 March 2022, all provisions relating to the UK Nursery Milk Scheme, insofar as they apply to Scotland, have been revoked and this concludes all devolution activity relating to Welfare Foods.

CHAPTER 7

OTHER SECTIONS OF THE SCOTLAND ACT 2016

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

- *The Crown Estate in Scotland*
- *Tribunals*
- *Policing of railways and the British Transport Police*
- *Onshore oil and gas licensing*
- *Consumer advocacy and advice*

Section 36: The Crown Estate in Scotland

Steps taken towards implementation since previous report

36. The responsibility for managing Crown Estate assets in Scotland was transferred to Crown Estate Scotland (Interim Management) on 1 April 2017, via a transfer scheme¹⁰ agreed between the UKG and the SG. On 1 April 2020, Crown Estate Scotland (Interim Management) was renamed Crown Estate Scotland as a result of the Scottish Crown Estate Act 2019.

Section 39: Tribunals

Steps taken towards implementation since previous report

37. Section 39 of the Scotland Act 2016 provides a statutory mechanism to enable the UKG to devolve responsibility for the management and operation of functions currently undertaken by reserved tribunals to Scotland.

38. The UKG and the SG are working closely together to prepare an Order in Council which sets out the basis on which the Scottish Parliament may pass legislation to give effect to the transfer of Scottish functions of the first phase of the reserved tribunals to a Scottish Tribunal.

39. The COVID-19 pandemic impacted progress of this work. While work has now resumed, the dates for transfer are still to be determined. Both governments will continue to work together to agree realistic transfer dates as progress is made.

¹⁰ <https://www.legislation.gov.uk/ukdsi/2017/9780111155103/contents>

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

Steps taken towards implementation since previous report

40. 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 (BTPA) and senior officers of the British Transport Police (BTP) force as cross-border public authorities. These sections of the Act commenced two months after Royal Assent on 23 May 2016.

41. The Scottish Railways Policing Committee (the Committee), a sub-committee of the BTPA, was established and met for the first time in October 2019. It has three members from the BTPA and two co-opted members from the Scottish Police Authority (SPA). It was created to provide assurance to the BTPA, SPA and Scottish Ministers on the delivery of railway policing in Scotland through:
 - Recommending to the BTPA the Scottish Railways Policing Plan, ensuring that there has been effective consultation with stakeholders;
 - Providing oversight of developmental plans and policies, scrutinising policing performance against agreed plans and statutory requirements; and
 - Ensuring agreed improvements recommended by external inspections and reviews are implemented.

42. The Committee met four times during 2021. At these meetings the Committee received regular updates on the BTP's performance against the Scotland Railways Policing Plan, briefings on rail specialisms such as safeguarding and policing freight and on how investment in railway policing in Scotland provides value for money, as well as a regular evaluation report on the Committee's activities. The agenda also featured a range of equality and diversity matters during 2021. It received regular updates on the approach to supporting rail staff and passengers during the COVID-19 pandemic, and a series of briefings on the preparation for and delivery of the COP26 policing effort in the autumn of 2021. With a focus on strengthening interoperability, the Committee now also receives a quarterly report on joint work between BTP, Police Scotland and other partners.

Sections 47-49: Onshore petroleum

Steps taken towards implementation since previous report

43. Sections 47-49 of the Scotland Act 2016 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.

44. A Memorandum of Understanding between the Oil and Gas Authority, the Secretary of State for Business, Energy and Industrial Strategy (BEIS) and Scottish Ministers sets out the arrangements for the handling of reserved

matters. It was drafted, agreed and signed by the Director of Energy Development and Resilience at BEIS, the Director of Corporate and the Chief Financial Officer at the Oil and Gas Authority and the Director of Energy and Climate Change at the SG on 8 November 2018. There have been no further changes since 2018.

Section 50: Consumer Advocacy and Advice

Steps taken towards implementation since previous report

45. The Consumer Scotland Act 2020 which established a new consumer advice and advocacy body, Consumer Scotland, was enacted on 9 June 2020. A Section 104 Order under the Scotland Act 1998 to enable Consumer Scotland to use its full powers under relevant UK legislation was affirmed by the UK Parliament in December 2021. This enabled Consumer Scotland to become operational from April 2022. BEIS will provide levy funding directly to Consumer Scotland through an annual grant agreement to enable it to fulfil its role in relation to energy and post advocacy. UKG and SG officials continue to work with Consumer Scotland to establish how it will function and use its powers within the wider UK consumer landscape.

Section 58 – 60: Fuel Poverty and ECO schemes

Steps taken towards implementation since previous report

46. Section 58 of the Scotland Act 2016 transfers certain powers to the Scottish Ministers in relation to support schemes applying to gas and electricity suppliers for the purpose of reducing fuel poverty in Scotland. This is called the Warm Home Discount (WHD).
47. Sections 59-60 transfer certain powers to Scottish Ministers in relation to the Energy Company Obligation (ECO). These are obligations imposed by the Secretary of State for BEIS on licensed gas and electricity suppliers to promote reductions in carbon emissions or home-heating costs in Scotland. The transfer of ECO and WHD powers by sections 58-60 of the Scotland Act 2016 have commenced¹¹, subject to the Secretary of State exercising reserved powers.
48. The regulations for ECO and WHD expired on 31 March 2022, with both schemes expanded and reformed. Proposed reforms of WHD in England and Wales from 2022 do not apply to Scotland. The UKG will make provision for a Great Britain-wide ECO and, subject to consultation, a Scotland WHD, both due to end in March 2026.

¹¹ <https://www.legislation.gov.uk/ukSI/2017/1157/made>

CHAPTER 8

EFFECT OF NEW POWERS ON THE SCOTTISH BLOCK GRANT

The UKG and the SG 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 SG'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 UKG 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

49. Alongside the UK Budget in November 2021, the UKG produced updated block grant adjustments for the SG to reflect their devolved powers in relation to tax, welfare and other revenues.
50. In line with the fiscal framework arrangements, the SG set its 2022-23 Budget in December 2021 using these updated block grant adjustments.
51. The UKG published an updated Block Grant Transparency document in December 2021. This shows an annual breakdown of the changes to the devolved administrations' block grant funding each year, including block grant adjustments and the changes to the SG's block grant up to and including Spending Review 2021.

Revenue raising powers

52. 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 UKG revenues. The adjustments applied to the SG's block grant will reflect the results of the Indexed Per Capita Model for a transitional period.
53. The upcoming review of the fiscal framework will determine what method for calculating block grant adjustments will be used beyond this transitional period.
54. The UKG and the SG are close to finalising arrangements for the independent report, which is to inform the review by considering the SG's block grant

adjustment arrangements. UK and Scottish Ministers share the ambition to launch the first stage as soon as possible.

Other areas of spend

55. 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 SG's block grant. The Barnett formula will subsequently be applied in the normal way.

CHAPTER 9

OTHER ACTIVITIES TOWARDS IMPLEMENTATION OF THE FISCAL FRAMEWORK

Steps taken towards implementation since previous report

Review of the fiscal framework

56. The fiscal framework document sets out the arrangements for a review of the SG's fiscal framework to take place after a Parliament's worth of experience.
57. At a meeting of the JEC on 14 October 2021, the Chief Secretary and the Cabinet Secretary for Finance and the Economy discussed the independent report that is to inform the review. Both ministers agreed to commission an independent report on the block grant adjustment arrangements, including a call for stakeholder input, prior to a broader review of the fiscal framework.
58. Both ministers met again on 3 February 2022 to discuss arrangements for the upcoming review of the fiscal framework. It was agreed that the fiscal framework review should be guided by principles set out in the Smith Commission Agreement. Both ministers agreed to continue a dialogue whilst the independent report is underway.

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