



# Scottish Fiscal Commission Act 2016

## 2016 asp 17

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 10th March 2016 and received Royal Assent on 14 April 2016**

An Act of the Scottish Parliament to establish the Scottish Fiscal Commission and to provide for its functions.

### *Scottish Fiscal Commission*

#### **1 Establishment**

- (1) The Scottish Fiscal Commission (in Gaelic, Coimisean Fiosgail na h-Alba) is established.
- (2) In this Act, it is referred to as “the Commission”.

#### **Commencement Information**

**II** [S. 1](#) in force at 1.4.2017 by [S.S.I. 2016/326](#), [reg. 2\(2\)](#)

### *Functions*

#### **2 Forecasts and assessments**

- (1) It is the duty of the Commission to prepare forecasts and assessments to inform the Scottish budget.
- (2) In particular, the Commission must on at least 2 occasions for each financial year prepare reports—
  - (a) containing its 5-year forecasts of receipts from—
    - (i) the devolved taxes,
    - (ii) non-domestic rates, <sup>F1</sup>...
    - (iii) income tax attributable to a Scottish rate resolution, <sup>F2</sup>... [<sup>F3</sup>and
    - (iv) assigned VAT receipts,]
  - [<sup>F4</sup>(aa) containing its 5-year forecasts of [<sup>F5</sup>devolved] social security expenditure,

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*Changes to legislation: There are currently no known outstanding effects for the Scottish Fiscal Commission Act 2016. (See end of Document for details)*

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- (ab) containing its forecasts in respect of Scotland's gross domestic product excluding the value of oil, gas and other hydrocarbons produced in the Scottish sector of the UK continental shelf for each of—
    - (i) the remaining quarters (if any) of the financial year in which the report is made and each of the quarters of the subsequent financial year, and
    - (ii) the 4 subsequent financial years, and]
  - (b) setting out its assessment of the reasonableness of the Scottish Ministers' projections as to their borrowing requirements.
- (3) Reports prepared under subsection (2) must, in relation to each forecast and assessment, include an explanation of—
- (a) the methodology used by the Commission, and
  - (b) the factors which have been taken into account including, in particular—
    - (i) the assumptions which the Commission made, and
    - (ii) the risks which it considered to be relevant.
- (4) The Commission may from time to time prepare reports—
- (a) containing its forecasts, assumptions or projections in relation to such fiscal factors as it considers appropriate, or
  - (b) setting out its assessment of the reasonableness of the Scottish Ministers' forecasts, assumptions or projections in relation to such fiscal factors as it considers appropriate.
- (5) For the purposes of subsection (4), a “fiscal factor” is anything which the Scottish Ministers use to ascertain the amount of resources likely to be available for the purposes of sections 1 to 3 of the Public Finance and Accountability (Scotland) Act 2000.
- (6) Reports prepared under this section may include such other information relating to the forecasts, assumptions, projections or assessments being made as the Commission considers appropriate.
- (7) Where a policy of the Scottish Ministers is relevant to the Commission's performance of its functions under this section, the Commission—
- (a) must have regard to the policy, but
  - (b) may not consider what the effect of any alternative policy would be.

#### Textual Amendments

- F1** Word in s. 2(2) repealed (1.7.2018) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2018 \(S.S.I. 2018/213\)](#), regs. 1, **2(2)(a)**
- F2** Word in s. 2(2) repealed (1.4.2017) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2017 \(S.S.I. 2017/86\)](#), regs. 1, **2(2)(a)**
- F3** S. 2(2)(a)(iv) and word inserted (1.7.2018) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2018 \(S.S.I. 2018/213\)](#), regs. 1, **2(2)(b)**
- F4** S. 2(2)(aa)(ab) inserted (1.4.2017) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2017 \(S.S.I. 2017/86\)](#), regs. 1, **2(2)(b)**
- F5** Word in s. 2(2)(aa) substituted (1.7.2018) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2018 \(S.S.I. 2018/213\)](#), regs. 1, **2(2)(c)**

#### Commencement Information

- I2** S. 2 in force at 1.4.2017 by [S.S.I. 2016/326](#), **reg. 2(2)**

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### 3 Meaning of terms used in section 2

- (1) This section defines terms used in section 2.
- (2) “5-year forecast”, in relation to a report prepared under section 2(2), means a forecast in respect of the financial year for which the report is prepared and each of the 4 subsequent financial years.
- [<sup>F6</sup>(2ZA) “Assigned VAT receipts” means amounts payable under section 64A of the Scotland Act 1998.]
- [<sup>F7</sup>(2A) [<sup>F8</sup>“Devolved social security expenditure” means financial or other assistance to or in respect of an individual where there is an entitlement to a devolved social security benefit expended] by the Scottish Ministers or a local authority which are—
- (a) made under any provision relating to a matter within—
    - (i) exceptions 1 to 10 in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998,
    - (ii) exception 1 in Section H3 of that Part, or
    - (iii) any further exception added to Section F1 or Section H3 of that Part after 31st March 2017, or
  - (b) attributable to regulations made by the Scottish Ministers by virtue of section 29 or 30 of the Scotland Act 2016 (powers in relation to universal credit).]
- (3) “Devolved taxes” is to be construed in accordance with section 80A(4) of the Scotland Act 1998.
- (4) “Non-domestic rates” means non-domestic rates levied under section 7B(2) of the Local Government (Scotland) Act 1975.
- [<sup>F9</sup>(4A) “Quarter”, in respect of a financial year, means a period of 3 months ending with the last day of June, September, December or March.]
- (5) “Scottish rate resolution” is to be construed in accordance with section 80C(1) of the Scotland Act 1998.

#### Textual Amendments

- F6** S. 3(2ZA) inserted (1.7.2018) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2018 \(S.S.I. 2018/213\)](#), regs. 1, **2(3)(a)**
- F7** S. 3(2A) inserted (1.4.2017) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2017 \(S.S.I. 2017/86\)](#), regs. 1, **2(3)(a)**
- F8** Words in s. 3(2A) substituted (1.7.2018) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2018 \(S.S.I. 2018/213\)](#), regs. 1, **2(3)(b)**
- F9** S. 3(4A) inserted (1.4.2017) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2017 \(S.S.I. 2017/86\)](#), regs. 1, **2(3)(b)**

#### Commencement Information

- I3** S. 3 in force at 1.4.2017 by [S.S.I. 2016/326](#), **reg. 2(2)**

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#### 4 Review of forecasting accuracy

- (1) The Commission must prepare reports for each financial year containing an assessment of the accuracy of the forecasts prepared by it under section 2(2)(a) <sup>[F10]</sup> to (ab) .
- (2) Reports prepared under this section may include such other information relating to the assessment being made as the Commission considers appropriate.

##### Textual Amendments

**F10** Words in s. 4(1) inserted (1.4.2017) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2017 \(S.S.I. 2017/86\)](#), regs. 1, **2(4)**

##### Commencement Information

**I4** S. 4 in force at 1.4.2017 by [S.S.I. 2016/326](#), **reg. 2(2)**

#### 5 Reports

- <sup>[F11]</sup>(1) The Commission must send a report prepared under section 2(2) to the Scottish Ministers in sufficient time for them to use the report to prepare—
  - (a) the Scottish budget document for the subsequent financial year; and
  - (b) the medium term financial outlook.
- (2) The Commission must lay before the Scottish Parliament a report prepared under section 2(2) on each day on which—
  - (a) the Scottish Ministers lay before the Parliament the Scottish budget document for the subsequent financial year; and
  - (b) a member of the Scottish Government publishes the medium term financial outlook.]
- (3) The Commission must lay any other report prepared under section 2(2) or a report prepared under section 2(4) or 4 before the Scottish Parliament as soon as reasonably practicable after the report is prepared.
- (4) Before laying a report prepared under section 2 or 4 before the Scottish Parliament, the Commission must send a copy of it to the Scottish Ministers (unless one has already been sent under subsection (1)).
- (5) Once a report prepared under section 2 or 4 has been laid before the Scottish Parliament, the Commission must publish it.
- (6) The Commission may publish reports prepared under section 2 or 4 in such manner as it considers appropriate.
- <sup>[F12]</sup>(7) In this section—
 

“5-year forecast” has the same meaning as in section 3(2) in respect of a report prepared under section 2(2);

“medium term financial outlook” means the Scottish Government’s rolling 5-year financial outlook document informed by 5-year forecasts; and

“Scottish budget document” means the Scottish Government’s budget document setting out proposals for the use of resources and associated matters in a financial year.]

*Changes to legislation: There are currently no known outstanding effects for the Scottish Fiscal Commission Act 2016. (See end of Document for details)*

#### Textual Amendments

- F11** S. 5(1)(2) substituted (1.7.2018) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2018 \(S.S.I. 2018/213\)](#), regs. 1, **2(4)(a)**
- F12** S. 5(7) inserted (1.7.2018) by [The Scottish Fiscal Commission \(Modification of Functions\) Regulations 2018 \(S.S.I. 2018/213\)](#), regs. 1, **2(4)(b)**

#### Commencement Information

- I5** S. 5 in force at 1.4.2017 by [S.S.I. 2016/326](#), **reg. 2(2)**

## 6 Protocol between the Commission and the Scottish Ministers

- (1) It is the duty of the Commission and the Scottish Ministers to agree a protocol for their engagement in relation to the forecasting and assessment process.
- (2) In particular, the protocol must set out—
  - (a) the arrangements for meetings and communications between the parties (and their staff),
  - (b) the expectations as to the information to be exchanged between the parties during the forecasting and assessment process including, in particular, in relation to draft reports prepared under section 2, and
  - (c) which (if any) documents relating to the forecasting and assessment process (other than reports prepared under section 2) are to be published and when.
- (3) The Commission must publish the protocol and may do so in such manner as it considers appropriate.
- (4) The Commission and the Scottish Ministers may from time to time agree revisions to the protocol.
- (5) Subsections (2) and (3) apply to a protocol which has been revised as they apply to the protocol agreed under subsection (1).
- (6) For the purposes of this section, a reference to the forecasting and assessment process is a reference to the Commission's performance of its functions under sections 2 and 5.

#### Commencement Information

- I6** S. 6 in force at 1.4.2017 by [S.S.I. 2016/326](#), **reg. 2(2)**

## 7 Scottish Ministers' statement

- (1) This section applies where the Scottish Ministers prepare—
  - (a) a [<sup>F13</sup>Scottish budget document] for a financial year, or
  - (b) a [<sup>F14</sup>medium term financial outlook] for a financial year,which has not been informed by a forecast for that financial year contained in a report prepared by the Commission under section 2(2).
- (2) The Scottish Ministers must prepare a statement explaining why they disagree with the forecast.