



# Scottish Fiscal Commission Act 2016

## 2016 asp 17

### *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, and
    - (iii) income tax attributable to a Scottish rate resolution, 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.

### **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.
- (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.
- (5) “Scottish rate resolution” is to be construed in accordance with section 80C(1) of the Scotland Act 1998.

### **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).
- (2) Reports prepared under this section may include such other information relating to the assessment being made as the Commission considers appropriate.

### **5 Reports**

- (1) The Commission must send—
  - (a) a report prepared under section 2(2) to the Scottish Ministers in sufficient time for them to use the report to prepare the draft Scottish budget for the subsequent financial year, and
  - (b) another report prepared under section 2(2) to the Scottish Ministers in sufficient time for them to use the report to prepare a Bill for a Budget Act for that year.
- (2) The Commission must lay before the Scottish Parliament—
  - (a) a report prepared under section 2(2) on the same day as that on which the Scottish Ministers lay before the Parliament the draft Scottish budget for the subsequent financial year, and
  - (b) another report prepared under section 2(2) on the same day as that on which a member of the Scottish Government introduces a Bill for a Budget Act in the Parliament for that year.

- (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.

## **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.

## **7 Scottish Ministers' statement**

- (1) This section applies where the Scottish Ministers prepare—
  - (a) a draft Scottish budget for a financial year, or
  - (b) a Bill for a Budget Act 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.
- (3) The Scottish Ministers must lay the statement before the Scottish Parliament on the same day as that on which (as the case may be)—

- (a) they lay before the Parliament the draft Scottish budget for the financial year, or
- (b) a member of the Scottish Government introduces the Bill for a Budget Act for the financial year.

## **8 Power to modify the Commission's functions**

- (1) Subject to subsection (2), the Scottish Ministers may by regulations—
  - (a) confer functions on the Commission,
  - (b) modify the functions of the Commission,
  - (c) remove functions from the Commission.
- (2) Regulations under subsection (1) may not remove the Commission's functions under section 2(1) or (4).
- (3) Regulations under subsection (1) are subject to the affirmative procedure.
- (4) In preparing a draft of a Scottish statutory instrument containing regulations under subsection (1) for laying before the Scottish Parliament, the Scottish Ministers must consult—
  - (a) the Commission, and
  - (b) such other persons as they consider appropriate.
- (5) Regulations under subsection (1) may—
  - (a) modify this Act or any other enactment,
  - (b) include incidental, supplementary, consequential, transitional, transitory or saving provision.

## **9 Independence**

- (1) In performing its functions, the Commission is not subject to the direction or control of any member of the Scottish Government.
- (2) This section is subject to any contrary provision in this or any other enactment.

## **10 Access to information**

- (1) The Commission—
  - (a) has a right of access at reasonable times to any relevant information that the Commission may reasonably require for the purpose of performing its functions,
  - (b) may require any person who holds or is accountable for relevant information to provide at reasonable times any assistance or explanation that the Commission may reasonably require for the purpose of—
    - (i) performing its functions, or
    - (ii) exercising the right conferred by paragraph (a).
- (2) In subsection (1), “relevant information” means information in the possession or under the control of—
  - (a) any member of the Scottish Government,
  - (b) Revenue Scotland,
  - (c) the Keeper of the Registers of Scotland,

- (d) the Scottish Environment Protection Agency,
  - (e) a local authority, a valuation authority or an assessor (or depute assessor) appointed under section 27(2) of the Local Government etc. (Scotland) Act 1994,
  - (f) such other person, or person of such description, as the Scottish Ministers may by regulations specify.
- (3) Subsection (1) is subject to any other enactment or rule of law that prohibits or restricts the disclosure of any information or the giving of any assistance or explanation.
- (4) Regulations under subsection (2)(f) are subject to the affirmative procedure.

## **11 Duty to co-operate with the Office for Budget Responsibility**

The Commission must, so far as necessary for the performance of the Office for Budget Responsibility's functions, co-operate with the Office.

## **12 Annual report**

- (1) The Commission must, as soon as reasonably practicable after the end of each financial year—
- (a) prepare and publish a report on its activities during the year,
  - (b) lay a copy of the report before the Scottish Parliament, and
  - (c) send a copy of the report to the Scottish Ministers.
- (2) The Commission may publish its reports under this section in such manner as it considers appropriate.

## **13 Review of Commission's performance**

- (1) The Commission must, at least once in every review period, appoint a suitable person or body to review and prepare a report on the Commission's performance of its functions during the period.
- (2) For the purposes of subsection (1), a person or body is suitable only if—
- (a) the person or body has expertise likely to be relevant to the assessment of the performance of the Commission's functions under section 2, and
  - (b) the person or body is not—
    - (i) a member of the Commission, or
    - (ii) disqualified from appointment as such a member by virtue of section 16(1)(a).
- (3) The Commission may make such payment to a person or body appointed under subsection (1) in respect of a review as it may, with the approval of the Scottish Ministers, determine.
- (4) The Commission must—
- (a) publish each report prepared under subsection (1),
  - (b) lay a copy of it before the Scottish Parliament, and
  - (c) send a copy of it to the Scottish Ministers.

- (5) The Commission may publish reports prepared under subsection (1) in such manner as it considers appropriate.
- (6) In this section, “review period” means—
  - (a) the period of 2 years beginning with the date on which section 2 comes into force, and
  - (b) each subsequent period of 5 years.