

# SCOTTISH FISCAL COMMISSION ACT 2016

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## EXPLANATORY NOTES

### OVERVIEW OF THE ACT

#### *Membership*

##### *Section 15 - Members of the Commission*

29. [Section 15](#) sets rules around the composition of the Commission.
30. The Commission must have a member who acts as chair and at least two, and no more than four, additional members. The number of members allowed to form the Commission can be changed through regulations made by the Scottish Ministers under the negative procedure.
31. Members are to be appointed by the Scottish Ministers, but only with the approval of the Scottish Parliament. This helps to protect the independence of the Commission and mirrors the process used to appoint the first chair and members in 2014. In addition, appointments to the Commission will be public appointments and therefore subject to the Public Appointments and Public Bodies etc. (Scotland) Act 2003. That means that appointments will be made after fair and open competition and that the appointments process will be regulated by the Commissioner for Ethical Standards in Public Life in Scotland.

##### *Section 16 - Disqualification for appointment*

32. [Section 16](#) disqualifies certain individuals from becoming members of the Commission. These persons are defined as Ministers, elected members of the Scottish, UK and European Parliaments or the National Assembly for Wales or Northern Ireland Assembly, local authority councillors, the holder of any other relevant elective office (which includes elected Mayors and members of the Greater London Assembly), members of the Scottish Government, officers of the Crown and civil servants. A person would also be disqualified if they are or have been insolvent, disqualified as a company director under the Company Directors Disqualification Act 1986, or disqualified as a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005.

##### *Section 17 - Period and terms of appointment*

33. [Section 17](#) provides for the period of appointments to the Commission. The period of appointment is set at the outset and may be any period chosen by Ministers, not exceeding five years. This makes it possible to ‘stagger’ the dates on which appointments expire, avoiding a situation where several members leave office at one time, which could dilute expertise and experience.
34. Members can be reappointed on one occasion and so may serve a total of two consecutive terms. To allow flexibility around the timing of the reappointment process (for example in obtaining parliamentary approval), a person may be reappointed if the person is currently a Member or was a Member in the three months prior to reappointment. All the provisions relating to appointments in this section and

*These notes relate to the Scottish Fiscal Commission Act  
2016 (asp 17) which received Royal Assent on 14 April 2016*

sections 15, 16 and 18, including parliamentary approval of appointments, apply to any reappointment.

***Section 18 - Disqualification after appointment***

35. **Section 18** mirrors section 16 and provides that a member's appointment will cease if the member becomes disqualified after appointment. This ensures that members are subject to the same requirements throughout the full term of their appointment.

***Section 19 - Resignation***

36. **Section 19** sets out that members may resign by giving written notice to the Presiding Officer of the Scottish Parliament and the Scottish Ministers.

***Section 20 - Removal***

37. **Section 20** provides the Scottish Ministers with the power to remove members from their position with the Commission, by giving the member written notice. It prescribes the circumstances in which this can occur, namely if a member has not attended meetings for more than three months (without permission for the absence), if a member is unable to perform the members functions or if Ministers deem them as being unfit for the role. Members can only be removed with the approval of the Scottish Parliament.