Overview

Introduction

1. Following the referendum on Scottish independence on 18 September 2014, the Prime Minister announced the establishment of a Commission under Lord Smith of Kelvin to produce recommendations for further devolution of powers to the Scottish Parliament. This step recognised widespread calls for further devolution during the referendum campaign, including proposals from the main UK parties to increase the powers of the Scottish Parliament. The Commission published its proposals on 27 November 2014.

2. The Scottish Government played a full part in the work of the Smith Commission, submitting detailed proposals on *More Powers for the Scottish Parliament* (October 2014)\(^1\), and supported its proposals for further devolution. However, the Scottish Government has made clear that it believed that the recommendations of the Commission should have gone further to provide coherent powers to promote economic growth and tackle inequality. This view was widely shared on publication of the Commission’s report\(^2\).

3. The outcome of the General Election demonstrated public support for further devolution beyond the recommendations of the Smith Commission, with a majority of voters supporting such proposals – confirming wider polling showing substantial majorities in favour of significant additional powers.

**The Smith Commission principles and Scottish Government priorities**

4. The Scottish Government believes that the Smith Commission’s final recommendations did not satisfy the principles that Commission itself agreed at the start of its work.

6. On 22 October Lord Smith and the political representatives agreed a set of principles intended to guide the work of the Commission and its conclusions.

7. Those principles stated that the package of powers agreed through the Smith Commission process, when taken together, should:

   (1) form a substantial and cohesive package of powers, enabling the delivery of outcomes that are meaningful to the people of Scotland.
   (2) strengthen the Scottish devolution settlement and the Scottish Parliament within the UK (including the Parliament’s levels of financial accountability).

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\(^1\) [http://www.gov.scot/Publications/2014/10/2806](http://www.gov.scot/Publications/2014/10/2806)


aim to bring about a durable but responsive democratic constitutional settlement, which maintains Scotland’s place in the UK and enhances mutual cooperation and partnership working.

not be conditional on the conclusion of other political negotiations elsewhere in the UK.

not cause detriment to the UK as a whole nor to any of its constituent parts.

cause neither the UK Government nor the Scottish Government to gain or lose financially simply as a consequence of devolving a specific power.

be implementable; be compatible with Scotland’s and the UK’s international obligations, including EU law; and be agreed with a broad understanding of the potential associated costs.\(^3\)

5. In particular, the Scottish Government does not believe that, with partial and incomplete powers to grow the economy and tackle inequality, the Commission’s recommendations meet the central and crucial test of coherence. In More Powers for the Scottish Parliament, the Scottish Government identified full fiscal autonomy as its preferred package of powers short of independence. More Powers for the Scottish Parliament and the Government’s Economic Strategy\(^4\) also identified a number of priority areas beyond the Smith Commission recommendations but short of full fiscal autonomy that could be devolved to provide a coherent package of powers both to boost competitiveness and tackle inequality. These included business and employment taxation, employment rights including the National Minimum Wage, and the welfare system.

6. Following the UK General Election on 7 May the Scottish Government has emphasised as its priority areas for further devolution beyond the recommendations of the Smith Commission:

- employment policy, including the minimum wage
- welfare
- business taxes
- national insurance
- equality policy

These proposals build on existing devolved powers and the Smith proposals to enable the Scottish Government and Parliament to take an integrated approach to a range of issues, such as support for employers and those seeking employment, tackling in work poverty and addressing inequality. The Scottish Government believes they better meet any tests for further devolution, especially coherence, than the current Scotland Bill.

7. Further devolution should also be considered from the point of view of the service user. The current proposals in the Scotland Bill will result in a mixture of responsibilities and service providers which is fragmented and potentially confusing to those looking for support. The Scottish Government believes its proposals would allow a more coherent approach to the delivery of public services, allowing agencies to join up, and providing a much improved service and experience to the public.

\(^3\) Smith Commission Report, Paragraphs 6 and 7, Page 9

\(^4\) Government Economic Strategy, March 2015, pages 78-81
Devolution in other areas

8. More Powers for the Scottish Parliament set out a full range of proposals for devolution beyond the immediate priorities covered in detail in this paper. The Smith Commission identified issues for consideration and discussion between the UK and Scottish Governments - such as the post study work visa, food levies and retention of fine income - which might also be fully devolved. The Scottish Government will take forward the discussion on devolution in these areas and others of practical benefit in improving the governance of Scotland.

Effective government across the UK: Scottish interests in reserved matters

9. The outcome of the General Election also highlights the need to consider how the UK and Scottish Governments work together, in particular how the UK Government develops policy and considers Scottish interests in reserved areas that directly affect Scotland. As discussed in the final section of this paper, a formal role for the Scottish Government and Parliament in these areas would ensure that Scottish views and priorities are taken into account.

Next steps

10. Building on the good practice - and momentum and expectation - created during the referendum campaign, the Scottish Government is committed to encouraging wider engagement and participation in the democratic process in Scotland. The Smith Commission undertook to engage civic Scotland and the public in their work, but the time available meant that the opportunity for meaningful consultation on the Commission’s proposals, and the Scotland Bill, was inadequate.

11. The Scottish Government is clear that the development of the Scotland Bill would have benefited greatly from the insight and experience brought by the public and civic Scotland. Again the opportunity for meaningful consultation is constrained by the timetable set by the UK Government, but, within that, the Scottish Government will ensure as great a public involvement as possible in developing the proposals in this paper. The Scottish Government has already consulted stakeholders in preparing this document and will be engaging more widely in the weeks and months ahead.
Full fiscal autonomy

12. Following the changes being introduced by the Scotland Act 2012, the Scottish Parliament will be responsible for raising around 16% of tax receipts in Scotland, amounting to around 21% of devolved expenditure. The Smith Commission proposals would increase those taxes fully or partly under the control of the Scottish Parliament to around 29% of tax receipts on Scotland and 36% of devolved expenditure. Including assigned VAT revenues would increase these to 38% of tax receipts in Scotland and 48% of devolved expenditure.5

13. While the Scottish Government welcomes the extension of the fiscal responsibilities of the Scottish Parliament proposed by the Smith Commission, these clearly fall far short of “Home Rule” as over 70% of tax receipts remain in the control of Westminster, and the Parliament will be responsible for raising a little over a third of devolved expenditure. Moreover, the UK Government will retain responsibility for 86% of welfare spending in Scotland. The Scottish Government also regrets that the tax powers proposed are limited to partial powers over Income Tax, and devolution of Air Passenger Duty and Aggregates Levy. Assignment of VAT provides no devolved control of this tax but is effectively an alternative approach to calculating part of the Scottish block grant. These proposals do not provide the Scottish Parliament with control over key taxes – like corporation tax or Employers National Insurance Contributions – and key elements of the welfare system such as tax credits and out of work benefits.

14. As a comparison, the Campaign for Scottish Home Rule argues that the Scottish Parliament should raise all of its expenditure from its own resources.6 Narrowing the gap between the Parliament’s spending and revenue raising powers would both increase its accountability and enable the Scottish Government to align better all elements of public policy with its objectives. A large gap between the Parliament’s potential revenue raising powers and spending responsibilities – as proposed by the UK Government’s Scotland Bill – reduces the scope to use those limited and narrow tax and welfare powers to address the Scottish Government’s key priorities, such as tackling austerity and inequality. This approach limits accountability and does not provide a coherent set of powers that the Scottish Parliament requires.

15. Full fiscal autonomy would mean that all onshore and offshore taxes would be designed and set in Scotland, including tax rates, allowances, thresholds and the tax bases. There would be some exceptions – such as VAT – where EU rules require uniformity across the UK. The Scottish Parliament would also take responsibility for all key elements of domestic expenditure, including welfare, and a direct payment would be made for the services Scotland receives from being part of the UK. These would include agreed amounts for defence, security, foreign policy and servicing of historic debt interest. In addition to a full range of tax powers, it is essential to full fiscal autonomy that the Scottish Parliament has access to other economic levers, such as employment rights and aspects of migration.

6 http://homerule.scot/about/principles/raising-what-you-spend/
16. The major difference between full fiscal autonomy and independence is that the Scottish Government would not have overall control of public expenditure in the areas that remain reserved. For example, Scotland would be required to continue to contribute towards the cost of replacing Trident if that remained UK Government policy. With independence Scotland would also have control over VAT and other taxes currently bound by EU rules.

17. More Powers for the Scottish Parliament noted the importance of sustainable public finances within Scotland and the UK, delivered through a fiscal framework jointly agreed by the two governments. Such a framework would provide an overarching agreement which provided both the autonomy and incentives for the Scottish Government to improve Scottish economic performance. The framework would also protect monetary stability, facilitate coordination on fiscal policy, oversee economic cooperation and joint responsibilities in areas of mutual interest between the UK and Scotland and safeguard fiscal sustainability which is in the interests of both governments.

18. A well designed fiscal framework will ensure that the Scottish Government has the tools to manage the risks of increased responsibilities that would come from full fiscal autonomy. Crucially, it would ensure that the Scottish Government could use fully its economic powers, including taxation, to develop and deliver distinctive policies designed to grow the Scottish economy, and, crucially to retain the benefits of those policies. As an example, the Scottish Government’s investment in free childcare will allow more families with young children to participate in the labour market. At present, the additional tax revenue and welfare savings generated in Scotland from such a policy accrue to the UK Government. The framework should also include rules to allow the Scottish Government to borrow to ensure stability within an overall United Kingdom context.

19. More Powers for the Scottish Parliament also noted that transition to full fiscal autonomy will take some years to complete, as implementation of the Scotland Act 2012 has demonstrated. During that transition period the Barnett formula will need to be retained to ensure that Scotland's public finances remain predictable and sustainable as the Scottish Parliament assumes responsibility for raising a greater proportion of its own revenues, and begins to benefit from measures to improve Scotland's economic performance.
Priorities for further devolution to the Scottish Parliament

20. As set out in *More Powers for the Scottish Parliament* and the *Economic Strategy*, any package of further devolution short of full fiscal autonomy should provide the Scottish Parliament with effective responsibility for a substantial range of taxes, other economic levers and wider powers to form a coherent framework for funding devolved public services, growing the economy, addressing productivity and tackling inequality. As set out above, the Scottish Government does not believe that the Smith Commission proposals meet that test: the range of taxes to be devolved is too narrow, and the devolved powers do not provide sufficient or coherent policy choices to the Scottish Government and Parliament.

21. The Scottish Government has therefore identified priorities for further devolution to the Scottish Parliament that would provide opportunities to address economic performance, productivity and social issues through greater powers over employment policy, national insurance and business taxes; welfare and equality policy. These proposals complement existing devolved powers, and the Smith Commission recommendations to allow the Scottish Government and Parliament to provide integrated policy approaches to these areas. For example, with responsibility for the National Minimum Wage, and a greater range of welfare benefits, Scottish Government could consider its overall approach to low waged employment. With responsibility for Job Centre Plus, the Scottish Government would take an integrated approach to the delivery of employability programmes and existing training programmes, centred on the experience of the individual service user rather than organisations. This paper sets out the detail of the Scottish Government’s proposals for further devolution and examples of how these powers could benefit Scotland.
Employment Policy

22. A coherent employment policy can help reduce inequality and tackle poverty, by assisting transitions into work, sustaining employment, and support for progress in work and addressing low pay. Scotland’s Economic Strategy sets out how addressing inequality complements increasing competitiveness in promoting sustainable, inclusive economic growth.

23. The long-standing gap in productivity performance between Scotland and the UK has been reduced in recent years. However, the productivity performance of both Scotland and the UK remains well below many of our international peers. The powers devolved via the Smith Commission provide few additional policy levers to tackle this longstanding challenge. The further powers identified by the Scottish Government would enable the Scottish Parliament to improve levels of productivity in Scotland and in turn Scotland’s overall economic performance and prosperity, for example through the impact of higher wages and Fair Work on productivity. Further devolution over employment rights would also allow the Scottish Parliament to safeguard current protections provided by EU legislation, were these to be threatened by the UK’s negotiations or the outcome of the EU referendum.

24. The Scottish Government's proposals build on the Smith Commission recommendations to devolve employment law, low pay, and health and safety. The Scottish Government also believes that Trade Union law should be devolved to maintain the largely stable and productive industrial relations in Scotland, underpinned by the long standing strategic partnership between the Scottish Government and the Scottish Trades Union Congress recently reaffirmed in the Memorandum of Understanding signed in May 2015.

25. The Scottish Government's priorities for devolution are:

- Responsibility for the minimum wage in Scotland
- Responsibility for Employment Law, Trade Unions, and Health and Safety
- Responsibility for employment policy in Scotland, including the full transfer of all DWP employment support programmes and Jobcentre Plus in Scotland

National Minimum Wage

26. With responsibility for the minimum wage the Scottish Parliament could address low pay and in work poverty, and give employers and workers incentives to invest in skills, increasing productivity. The minimum wage in Scotland could be increased at least in line with inflation and could be increased further to match the Living Wage over time. Scottish Ministers have proposed raising the minimum wage to £8.70 by 2020. This is broadly equivalent to an annual growth of 5.5%, which is equivalent to the average growth between 1999 and 2007, and would go some way to reversing the below inflation increases in the minimum wage between 2007 and 2014. Our aim would be to set a minimum wage which enhanced living standards and worked alongside tax and tax credits. Following the precedent of the devolution of the Agricultural Wages Board, the UK National Minimum Wage could act as a floor for the National Minimum Wage in Scotland, so Scottish workers are never disadvantaged in comparison to those elsewhere in the UK.
27. With devolution, the National Minimum Wage can be integrated into the devolved income tax and welfare systems to ensure that in work poverty is addressed in a coherent way, and that different parts of the system align in providing support. By taking measures to ease the burden of employer National Insurance contributions, we can also limit the impact of costs to businesses, particularly those with less than 250 employees.

Employment legislation

28. Scotland’s Economic Strategy emphasised the Government’s Fair Work agenda, encompassing job security, fair reward, and opportunities for personal and workplace development. Many features of this agenda are driven by the existing UK regulatory framework and the interaction with UK welfare policy. Devolving all aspects of employment rights would enable the Scottish Government to develop an employment regime that addresses inequalities through fair work and fair wages, building on the Scottish Government’s existing partnership approach.

29. To progress towards Fair Work the Scottish Government is encouraging a wide group of partners – employers, employees and trade unions – to share, encourage and adopt best practice in workplaces across the country. The Scottish Government has established a Fair Work Convention that will provide independent advice to Scottish Government on innovative and productive workplaces, industrial relations and the Living Wage. The Economic Strategy noted that without powers to legislate, there was a need to rely on persuasion and influence. With devolution of responsibility for employment rights the Government would be able to give full effect to the advice from the Fair Work Convention.

Health and Safety

30. Increased scrutiny and accountability by Scottish Parliament for workplace health and safety in Scotland, both legislation and delivery, would ensure that regulatory priorities are informed by evidence and needs of Scottish workers and businesses. There are a number of areas that would benefit from an approach focussed on Scottish circumstances: remoteness: the balance of Scottish industries; and injury and death rates in certain industries, such as agriculture, forestry and fishing. Further devolution would allow for greater coherence across regulatory bodies with, for example, fire and environmental protection already devolved. In particular the tensions across the devolved (e.g. food safety) and reserved (e.g. health and safety) regulatory duties of local government could be addressed. In areas where there is a strong cross border interest and specialist requirements, such as in offshore oil and gas, there would be mechanisms to ensure Scottish and UK regimes complemented each other.
Employment Support Programmes

31. Under the proposals in the draft Scotland Bill, from 1 April 2017 the Scottish Government will deliver devolved employment support programmes in Scotland for long term unemployed and disabled people. The Smith Commission proposals went further than this and the Scottish Government believes the Scotland Bill should reflect those proposals in full and devolve all employment support programmes.

32. Going beyond the Smith recommendations to devolve the Jobcentre Plus Network in Scotland would deliver complete and coherent devolution of welfare to work functions, ensuring coordinated support to those out of work and in receipt of benefit. Responsibility for the sanctions and conditions in Universal Credit would allow these to be integrated into the employment support programmes delivered by the Scottish Government and its partners. By contrast, it is clear that the current provisions risk a fragmented approach to providing these services to those needing support.

33. For example, if only support for the long term unemployed is devolved, the Scottish Government cannot provide effective early intervention to assist individuals recently out of work, joining up employment support services with support services – such as skills training and education - currently administered through devolved bodies. Effective early intervention, joining up current devolved services with Job Centre Plus, could deliver better results, and achieve financial savings by preventing individuals from becoming long term unemployed. Supporting individuals into sustainable employment benefits the individual and their families, but also has wider societal and community impact. Coherent, timely, and targeted employment support, can positively impact on areas of devolved services, for example Health and Social Care services.
Welfare

34. Further responsibility for the welfare system would allow the Scottish Parliament to design a system based on Scottish priorities and preferences, and to fit with the delivery of services in Scotland, based on prevention and early intervention, responding to individual needs and tackling in equalities. Such a system could also ensure greater coherence with devolved policy related to, for example, children’s services, employment support programmes, and tackling poverty and inequalities.

35. The Scotland Bill proposals for welfare devolution fail to deliver on the intention or letter of the Smith Commission’s report. Beyond this, they fail to deliver a coherent package of power adequate to allow the Scottish Parliament to respond as effectively as possible to the needs of people in Scotland. For example, the Scotland Bill does not implement the key Smith recommendation that the Scottish Parliament has powers to create new benefits in areas of devolved responsibility. The Bill also constrains the Scottish Parliament’s powers over disability and ill health related benefits, Carers’ Allowance and the Regulated Social Fund. The Bill maintains the UK Government’s effective veto over flexibilities in Universal Credit, and powers over discretionary housing payments and discretionary payments and assistance also remain subject to restrictions.

36. More powers over working age benefits would allow the Scottish Government to achieve greater coherence with the Scottish Welfare Fund that can be the only source of financial help available at the start of claims for unemployment benefits. Devolved powers over benefits for disabled people, people with a limiting health condition and their carers provides a range of opportunities to better integrate services, care and budgets on welfare, health and social care. This would provide a coherent and responsive service that reduced the number of assessments, agencies and requests for information, and create a comprehensive and focussed package of personalised care.

37. The Scottish Government’s priorities for devolution are:

- Responsibility for working age benefits; or at least further flexibilities in Universal Credit, including the power to vary the Carer’s, Child and Childcare Costs elements and the Work Allowance, and conditionality and sanctions.
- Benefits relating to children (Child Benefit & Guardian’s Allowance).

Full devolution of working-age benefits and flexibilities in Universal Credit

38. Full devolution of welfare and employability policy would ensure policy coherence in Scotland and provide coordinated support to those out of work, as well as responsiveness to local circumstances and Scottish priorities. Full devolution of social security was strongly supported by the third sector in Scotland during the Smith Commission.

39. The Scottish Government’s preference is for Universal Credit to be devolved completely. Evidence to the Smith Commission process set out that flexibilities in the Universal Credit system were feasible and that all elements of Universal Credit
could be adjusted for separate Scottish decisions if powers were devolved. Smith recommended that the housing elements and a number of administrative decisions were devolved to Scotland.

40. In addition to the Smith proposals for flexibilities, powers to vary parts of Universal Credit could also cover the amount of the different elements in Universal Credit, and the conditions for entitlement to different elements. Different elements provide support for different sub-groups, and have different impacts, for example:

- To support children or carers, the power to vary the carer’s, child and childcare costs elements of Universal Credit should be devolved.
- To support jobseekers devolving decisions over Universal Credit sanctions and conditionality would complement the devolution of employability programmes. The “7-day waiting rule” could also be removed, to provide support from the date of claim.
- To support working households on low incomes, decisions over the Work Allowance (the amount of income a household can earn before their Universal Credit entitlement is reduced) could be devolved. The Work Allowance varies by household type and whether the household receives support for housing costs so it could be altered to provide additional support to certain groups, for example lone parents, or those with mortgages, or equalising the Work Allowance for working couples.

Benefits relating to children

41. Benefits for children (Child Benefit & Guardian’s Allowance) relate closely to existing devolved responsibilities for children and families, and devolution of these benefits would enable an integrated approach to supporting these groups.

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**Business Taxes**

42. Within the devolved powers currently available, successive Scottish Governments have pursued policies to support sustainable economic growth and higher quality jobs, and have succeeded in narrowing a historic gap in economic performance with the UK. This Government has introduced the Small Business Bonus Scheme and established the Scottish Investment Bank, invested in infrastructure and maintained Scotland's record in attracting international investment.

43. Greater responsibility for business taxes would complement existing devolved policy levers and could be used to help support the rebalancing and reindustrialisation of the Scottish economy, particularly in manufacturing. These powers should be accompanied by a fiscal framework that incentivises the Scottish Government and Parliament to use them to improve Scottish economic performance, and ensures the benefits of such policies are retained in Scotland.

44. The Scottish Government’s priorities for devolution are:

- Policy control over Employers’ National Insurance Contributions
- Full responsibility for corporation tax in order to provide targeted incentives
- Full responsibility for capital gains tax

**Employers’ National Insurance**

45. Devolution of policy control over National Insurance would allow the development of a coherent system of personal and business taxation in Scotland. The Scottish Government’s priority is responsibility for employers’ National Insurance. However, policy control for employee’s National Insurance, and the remaining powers over Income Tax, would enable the Scottish Parliament to take an overall approach to personal taxation to deliver an integrated and progressive system.

46. A more integrated set of powers over business taxation alongside business rates, corporation tax and capital gains tax could be used to reduce the cost of employment in key sectors. For example, changes could be made to specific elements of the NIC system such as:

- Increase the Lower Earnings Rate. The lower earnings rate is the point at which employers need to start paying NICs. It is currently set at approximately £7,956 (increasing to £8,060 in April 2015) which is significantly lower than the personal allowance. Increasing the rate would reduce contributions for all businesses who are paying NICs, but would have a proportionately greater impact on employers of workers on low wages or/and low hours and may eliminate NICs completely for some employers.

- Employment Allowance. In 2014, the UK Government introduced an employment allowance which allows companies to reduce their NICs bill by a flat rate of up to £2,000 a year. This allowance could be made more generous or linked to companies paying the living wage.

- Exempting Certain Groups. From April 2015, employers will no longer have to pay NICs for employees under 21. From 2016, they will no longer need to pay NICs for most modern apprentices under 25. From 2010 to 2013, start-
ups outside London, the South East and east of England were exempt from NICs for the first ten recruits they hired during in their first year of trading. Such measures allow reforms to be targeted at specific groups and can therefore be more cost effective than across the board changes to headline rates and thresholds.

Corporation tax

47. Full responsibility for corporation tax, including rates, reliefs, thresholds and the tax base, would allow the Scottish Government to tailor the tax system to reflect the specific competitive strengths and challenges in the Scottish economy. Targeted changes in tax allowances can encourage businesses in specific areas.

48. UK capital allowances, which provide support for businesses undertaking capital investment, tend to be less generous in comparison to many other OECD countries. These allowances, until recent years, have generally seen their levels reduced. With devolved powers, the Scottish Government could consider reforms such as:

- Provide more certainty on the Annual Investment Allowance (As a temporary measure the UK Government has increased it from £25,000 to £500,000)
- Introduce a regional variation in capital allowances
- reintroduction a specific allowance for industrial structures and buildings
- introduce capital allowances for specific type of investment in certain sectors – for example investment in renewables.

49. R&D tax credits provide financial support for companies undertaking R&D with separate schemes provided for Small and Medium sized Enterprises and large companies. With further devolution the Scottish Government could introduce a higher rate of R&D tax credits in Scotland, to reflect the persistently low levels of business R&D in Scotland. At present, business R&D in Scotland stands at 0.6 per cent of GDP compared to 1.06 per cent for the UK as a whole, and 2.3 per cent in Finland and Sweden.

50. In addition, corporate tax reliefs in conjunction with employer NI Contributions could be extended to promote inclusive growth. Companies which increase employment over the year, or provide increased apprenticeship roles, could be offered corporate tax relief, as could companies which adopt the Scottish Business Pledge (or certain aspects of it, for example the living wage).

Capital Gains Tax

51. Full responsibility for capital gains tax could be used to create targeted tax incentives to boost entrepreneurship to redress Scotland’s lower rates of entrepreneurship and business start-up. For example, we could review the effectiveness of existing entrepreneur’s relief (lower tax charge on first £10 million gain arising from sale of business) or seed investment relief (incentivises investment in small, start-up companies).
52. Full responsibility for corporation tax and capital gains tax, and policy control of Employers' NICs, would also improve cohesiveness of the overall package of devolved powers. Under the Smith proposals Scotland will have partial control of income tax, including rates and thresholds on earned income. However, as businesses grow they may pay capital gains tax, and if they incorporate they will begin to pay corporation tax. This means that an increasing share of the proceeds from growing the Scottish economy, in the form of higher tax receipts, will be directed to the UK Government, rather than the Scottish Parliament. Capital gains tax rates are also set by reference to income tax thresholds. However, under Smith Scottish capital gains will continue to be taxable based on income tax thresholds in the rest of the UK. Devolving responsibility for all of these taxes to the Scottish Parliament will ensure that it benefits from successful economic policies, and that there are no unintended adverse consequences to Scotland's public finances from different responsibilities for income tax, capital gains tax and corporation tax.
**Equality Policy**

53. Scotland has a strong record in protecting and promoting equality and human rights. With additional powers the Scottish Parliament would be able to strengthen this framework further, and maintain existing protections of equality and human rights. The Scottish Government is firmly opposed to any measures that might reduce current safeguards. The close relationship between equal opportunities, employment and welfare also means that further devolution in these areas would provide greater coherence in the powers of the Scottish Parliament and Government.

54. The Scottish Government proposes that the Scottish Parliament has full devolved responsibility for equal opportunities and equality legislation. Full devolution of these functions would support participation, solidarity and cohesion and contribute to inclusive growth. Barriers which prevent women from getting into work, participating in society and from earning the same as men could addressed more effectively. Protection against discrimination could be strengthened. The Scottish Parliament could raise awareness of and support the enforcement of rights.

55. Specific measures which could be taken with full devolution include:

- Tackling the **gender pay gap** by introducing mandatory equal pay audits and making equal pay law more effective.
- Removing the **barriers that prevent women getting into work** by strengthening parental rights such as the right to flexible working.
- Increase the **diversity of boards** of public bodies and other organisations in order to deliver better decision making.
- **Strengthen protection from discrimination** – for example, to make clear that equality law protects all transgender and intersex people from discrimination; and to address discrimination which arises from the combination of characteristics.
- Support **stronger enforcement** of rights through for example advice and conciliation services and support for strategic court cases
- Increasing **accountability to democratic processes** within Scotland, including the relationship between the Scottish Parliament and equality infrastructure.

**The Advancement of Equality**

56. The advancement of equal opportunities has been central to the work of the Scottish Government and Scottish Parliament since 1999. However, the constraints of the current arrangements for the public sector equality duty (section 149 of the Equality Act 2010) only allow a framework to enable the better performance of legislation determined at Westminster.

57. Full devolution would allow the Scottish Parliament to **determine the focus for the advancement of equality in Scotland** rather than setting arrangements to deliver requirements decided by the UK Government. Scotland could ensure that the **public sector equality duty** can continue to support a strong focus on improving outcomes and could also consider how it might be used alongside other powers to tackle socio-economic disadvantage and promote social justice.
Effective government across the UK

58. In addition to devolving powers beyond the recommendations of the Smith Commission, the Scottish Government believes that the outcome of the General Election highlights the need for both governments to examine how they work together, particularly in reserved areas as they directly affected Scotland. The need for improved working between the governments also applies to establishing a UK position for discussions in the European Union.

59. In the More Powers paper the Scottish Government set out its belief that:

a particular policy area being reserved does not mean policy has to be uniform across the UK. Neither does devolution mean policy has necessarily to be different in Scotland from the rest of the UK if there are common interests.

The paper described areas of devolved competence where there was existing cooperation between the governments, and noted that extension of self-government would mean that other potential areas of cooperation would arise.

60. On reserved powers, the paper said:

the fact that a particular area remains reserved to Westminster should not mean that the Scottish Parliament and Scottish Government should have no formal role in decision-making. The Scottish Government proposes that, in reserved areas, new procedures and structures are established to allow the Scottish Parliament and Government a formal role in key decisions affecting Scotland directly. This is especially important when the UK Government's proposals do not have popular or Parliamentary support in Scotland. The Scottish Government and Scottish Parliament could also have a formal mechanism to make positive proposals for the exercise of reserved functions in Scotland, which the UK Government would be obliged to consider.

61. The Scottish Government remains of this view. The direction of the Smith proposals, and the outcome of the General Election, point to the need for better working between the governments. There is a particular need to consider how policy in reserved areas that directly affects Scotland is developed, to ensure that Scottish views and priorities are taken into account, and that policy effectively operates with related devolved policies. The Scottish Government believes that formal mechanisms would ensure improved process and outcomes for both governments, and for the people of Scotland.