Sixth Annual Report on the Implementation of the Scotland Act 2016

Tenth Annual Report on the Implementation and Operation of Part 3 (Financial Provisions) of the Scotland Act 2012

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Presented to Parliament pursuant to Section 33(2)(b) of the Scotland Act 2012

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1. Introduction

1. This is the sixth report on the implementation of the Scotland Act 2016 and the tenth and final annual report on the implementation and operation of Part 3 (Financial Provisions) of the Scotland Act 2012.

2. It is intended to inform Parliament of the implementation work that has been carried out on fiscal powers in the Scotland Acts 2012 and 2016 as required by section 33 of the Scotland Act 2012 and paragraph 107 of the Fiscal Framework. The UK Government produces a separate report on the implementation work they have carried out.

3. The Scotland Act 2012 was granted Royal Assent in May 2012 and represented the first transfer of fiscal powers from Westminster to the Scottish Parliament following devolution. These included:

   - The creation of a new Scottish rate of Income Tax;
   - Provisions to introduce a new Scottish tax on land transactions, and to disapply UK Stamp Duty Land Tax in Scotland;
   - Provisions to introduce a new Scottish tax on disposals to landfill, and to disapply UK Landfill Tax in Scotland;
   - Provision for capital borrowing by Scottish Ministers; and
   - The power to create new devolved taxes.

4. The Scotland Act 2016 received Royal Assent in March 2016 and devolved a range of further powers to the Scottish Parliament. These included:

   - Further income tax powers including the power to set rates and bands;
   - Assignment of Value Added Tax;
   - Certain social security benefits;
   - Provisions to introduce a new Scottish tax on the carriage of passengers by air from Scottish airports, and to disapply Air Passenger Duty in Scotland;
   - Provisions to introduce a new Scottish tax on the commercial exploitation of aggregates, and to disapply the UK Aggregates Levy in Scotland;
   - Fines, forfeitures and fixed penalties.

5. This report provides an update on these sections, as well as non-legislative elements in the Fiscal Framework[1] including:

   - Block Grant Adjustments;
   - Administration and implementation costs;
   - Policy Spillover effects;
   - Borrowing; and
   - Scotland Reserve.

6. The report provides an update on all legislative, policy and implementation work that has been carried out since the previous report on 24 March 2021 and

[1] Fiscal framework: agreement between the Scottish and UK Governments - gov.scot (www.gov.scot)

outlines any forecast administration and implementation costs incurred in 2021-22.

7. Administration costs are the ongoing costs incurred in supporting the delivery of the Scottish Government's responsibilities under the Scotland Acts 2012 and 2016. Implementation costs are one-off costs associated with the initial investment to set up all the necessary systems and other elements required for the delivery of the powers under the Scotland Acts 2012 and 2016, whether through setting up a body or a service or implementing IT systems.

8. Section 33 of the Scotland Act 2012 calls for a ‘final report’ on or as soon as practicable after 1 April 2020, or if later, the first anniversary of the day on which the last of the provisions of Part 3 came into force. All Part 3 provisions of the Scotland Act 2012 have come into force, save for consequential amendments in Schedule 2 relating to the Scottish rate of income tax, and therefore this is the final report on the Scotland Act 2012.

9. Paragraph 1(2)(a) to (d) of Schedule 2 of the Scotland Act 2012 amends section 110 of the Scotland Act 1998, and permits the Secretary of State for Social Security to designate a taxpayer as a Scottish taxpayer (for the purposes of the Scottish variable rate), for social security purposes. These amendments were made to ensure that DWP could deem an applicant’s status and rate (if unknown at the time when a Social Security benefit is claimed or application made for a child maintenance calculation) to avoid delay. Paragraph 1(2) of Schedule 2 are precautionary amendments to allow for the section 110 power to be used for the new Scottish Rate, in the event that a Scottish Rate Resolution is not passed.

10. As a Scottish Rate Resolution has always been passed by the Scottish Parliament to date, use of these consequential amendments by the UK Government have not been necessary. The remainder of the Schedule 2 provisions relates to parts of the Scotland Act 1998 that have been omitted or would be repealed on commencement.

11. The Cabinet Secretary for Finance and the Economy will update the Scottish Parliament should there be any further changes to the implementation of Part 3 of the Scotland Act 2012.

12. The next report on the Scotland Act 2016 will be published in 2023.

2. Fully Devolved Taxes

The Scotland Act 2012 provided for the devolution of powers to introduce a tax on transactions involving interests in land and on disposals to landfill. This led, respectively, to the introduction of Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax in Scotland from 1 April 2015.

The Scotland Act 2016 subsequently provided for the devolution of powers to introduce a tax charged on the carriage of passengers by air from airports in Scotland and on the commercial exploitation of aggregates in Scotland. Devolved taxes drawing on these powers have not yet been introduced.

Costs

Table 2.1: Implementation and Administrative Costs

£m	2019-20	2020-21	2021-22 (forecast)
Implementation	0.8	0.0	0.0
Administration/Operation	6.3	6.2	6.3

13. The above table reflects Revenue Scotland's costs to prepare for, administer, and implement Land and Building Transaction Tax (LBTT), Scottish Landfill Tax (SLfT), Air Departure Tax (ADT), and Aggregates Levy (AL).

Land and Buildings Transaction Tax

LBTT replaced UK Stamp Duty Land Tax (SDLT) in Scotland from 1 April 2015. LBTT is a tax applied to residential and commercial land and building transactions (including commercial leases) where a chargeable interest is acquired. LBTT is collected and administered by Revenue Scotland, with support from Registers of Scotland (ROS).

Outturn for 2020-2021

14. Revenue Scotland's Annual Devolved Taxes Accounts[2], published on 3 December 2021, reported total LBTT receipts in 2020-2021 of £517 million compared to £597 million in 2019-20. This revenue reduction was related to the effect of the COVID-19 pandemic on property markets and the temporary increase in the residential LBTT zero rate threshold from £145,000 to £250,000 throughout most of 2020-21.

Rates and bands

15. On 31 March 2021, the temporary increase in the nil rate band for residential LBTT came to an end. No changes were made to the rates and bands of LBTT during 2021-22.

[2] Annual Report and Accounts 2020-21 | Revenue Scotland

16. Rates and bands in 2021-22 were as follows and will remain in place in 2022-23:

Table 2.2: LBTT Rates and Bands for Residential Conveyances

Band	Relevant Consideration	Rate
Nil rate band	Not more than £145,000	0%
First tax band	More than £145,000 but not more than £250,000	2%
Second tax band	More than £250,000 but not more than £325,000	5%
Third tax band	More than £325,000 but not more than £750,000	10%
Fourth tax band	More than £750,000	12%

17. The LBTT Additional Dwelling Supplement (ADS) remains at four per cent of the total price of the property for all relevant transactions of £40,000 and above, and will be charged in addition to any other amount of LBTT due.

Table 2.3: LBTT Rates and Bands for Non-Residential Conveyances

Band	Relevant Consideration	Rate
Nil rate band	Up to £150,000	0%
First tax band	Above £150,000 to £250,000	1%
Second tax band	Above £250,000	5%

Table 2.4: LBTT Rates and Bands for Non-Residential Leases

Band	Net present value of rent payable*	Rate
Nil rate band	Up to £150,000	0%
First tax band	Above £150,000 to £2 million	1%
Second tax band	Above £2 million	2%

*LBTT on lease premia is payable at the same rate and in the same bands as non-residential conveyances.

Legislation

18. No legislative changes were introduced for LBTT in 2021-22.

19. Following an announcement in the Scottish Budget 2022-23, a call for views and evidence on the ADS was launched on 16 December 2021. This closed on 11 March 2022.

Scottish Landfill Tax

Scottish Landfill Tax (SLfT) was introduced on 1 April 2015, replacing UK Landfill Tax. It is a tax on the disposal of waste to landfill, charged by weight on the basis of two rates: a standard rate, and a lower rate for less polluting materials. SLfT is collected and administered by Revenue Scotland, with support from Scottish Environmental Protection Agency (SEPA).

<u>Rates</u>

20. As announced in the Scottish Budget 2021-22, and confirmed through subsequent legislation[3], the rates of SLfT for 2021-22 were £96.70 per tonne for standard rated waste and £3.10 per tonne for lower rated waste.

21. The Scottish Government announced in the Scottish Budget 2022-23 proposals to increase the standard rate of SLfT to £98.60 per tonne and the lower rate of SLfT to £3.15 per tonne, with effect from 1 April 2022. Legislation[4] was made and laid in the Scottish Parliament on 9 February to provide for this inflation-based increase, which will ensure consistency with planned Landfill Tax charges in the rest of the UK.

22. No changes have been made to the Scottish Landfill Communities Fund (SLCF) credit rate in 2021-22. This remains at 5.6%.

<u>Outturn</u>

23. Revenue Scotland's Annual Devolved Taxes Accounts[5], published on 3 December 2021, reported total SLfT receipts in 2020-21 of £107 million compared to £119 million in 2019-20. The pandemic disrupted waste markets and therefore SLfT revenue flows in 2020-21.

<u>Legislation</u>

24. Other than the increase to rates outlined above, no new legislative changes have been made to the arrangement for SLfT in 2021-22. On 25 November 2021, a consultation was launched on potential changes to the SLfT Prescribed Activities Order[6].

Air Departure Tax

Air Departure Tax is Scotland's planned replacement for Air Passenger Duty, which was devolved by the Scotland Act 2016. The UK and Scottish Governments have agreed that the introduction of Air Departure Tax will be deferred in order to allow for the issues raised with regard to the Highlands and Islands exemption to be resolved.

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[3] The Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2021 (legislation.gov.uk)
[4] The Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2022 (legislation.gov.uk)
[5] Annual Report and Accounts 2020-21 | Revenue Scotland
[6] Scottish Landfill Tax - further clarity and certainty: consultation - gov.scot (www.gov.scot)

25. The introduction of ADT in Scotland remains deferred to allow the issues raised in relation to the exemption for flights departing from the Highlands and Islands to be resolved.

26. The UK Government will maintain application of Air Passenger Duty in Scotland in the interim. The Scottish Government continues to engage with the UK Government to find a solution that remains consistent with the Scottish Government's climate ambitions.

Aggregates Levy

The Scotland Act 2016 provided the Scottish Parliament with the power to legislate for a tax to replace the Aggregates Levy in Scotland. Aggregates Levy is a tax paid on the commercial exploitation of primary aggregates i.e. crushed rock, sand, and gravel.

27. The Scottish Government continues to progress work on a devolved levy and confirmed in the Scottish Budget 2022-23 that the necessary primary legislation would be introduced in this session of the Scottish Parliament.

28. In December 2021, the British Geological Society were commissioned to undertake a survey of aggregate minerals in Scotland which will provide up-to-date information on the quantities, reserves, sales and movement of aggregate minerals in Scotland.

3. Scottish Income Tax

Since 6 April 2017, the Scottish Parliament has had the power to set the Income Tax rates and bands applicable to Scottish taxpayers on their non-savings and non-dividend income, but powers over the personal allowance and savings and dividend income are reserved to the UK. The rates and bands are set each year by a parliamentary motion known as the Scottish Rate Resolution.

Costs

Table 3.1: Implementation and Administrative Costs

£m	2019-20	2020-21	2021-22 (forecast)
Implementation	0.6	0.0	0.0
Administration/Operation	0.9	0.7	0.6

Move to normal running costs

29. Her Majesty's Revenue and Customs (HMRC) completed the implementation work to deliver Scottish Income Tax during 2019-20, and the costs for the last two years have reduced, reflecting the move to a business as usual setting for Scottish Income Tax.

30. HMRC estimates the overall cost charged to the Scottish Government for implementing Scottish Income Tax powers, from the Scotland Act 2012 and Scotland Act 2016, to be £24.3 million. The costs of altering systems and processes in the future, for example to accommodate changes to rates and thresholds, will be recharged to the Scottish Government.

31. Final figures for 2021-22 were not available at the date of publication. For the financial year 2021-22 to quarter three, the Scottish Government has been invoiced running costs of £418,000 for the administration of Scottish Income Tax. HMRC has forecast a total cost for 2021-22 of £0.6 million.

Assurance from National Audit Office and Audit Scotland

32. The National Audit Office (NAO) published its report[7] on the administration of Scottish Income Tax 2020-21 on 14 January 2022. The report stated that "HMRC has adequate rules and procedures in place to ensure the proper assessment and collection of Scottish income tax and that those rules are being complied with". Audit Scotland reviewed this approach taken by the NAO, and endorsed its findings in their own report[8], also published on 14 January 2022.

[7] Administration of Scottish Income tax 2020-21 - National Audit Office (NAO) Report
[8] Administration of Scottish income tax 2020/21 | Audit Scotland (audit-scotland.gov.uk)

Scottish Taxpayer Identification

33. HMRC estimates that there are around 2.5 million Scottish taxpayers in 2020-21. Scottish Government and HMRC agree on the importance of the correct identification of Scottish taxpayers to enable successful implementation of Scottish Income Tax powers. HMRC undertakes regular assurance activity on its customer data to ensure that its identification of the Scottish taxpayer population is as accurate as possible.

34. In 2021, HMRC undertook an exercise to match their Scottish taxpayer records to a third party data source (known as a 'data clash'). The aim was to test whether HMRC's identification of Scottish taxpayers was corroborated by other sources. HMRC's analysis of the results of this exercise suggests that their identification of Scottish taxpayers is correct in 98-99 per cent of cases. HMRC undertakes the data clash exercise every two years and will next do so in 2023-2024.

Outturn Data

35. HMRC published the 'Scottish Income Tax Outturn Statistics: 2019 to 2020'[9] in July 2021, showing that receipts from Scottish Income Tax were £11.8 billion in 2019-20. These figures were initially published on a provisional basis but were formally signed off after the NAO had completed their annual audit of HMRC's Annual Report and Accounts, and Trust Statement in November 2021. This was the second publication of outturn data that included receipts from the five band Scottish Income Tax System implemented in 2018-19.

Rates

36. Scottish Income Tax rates and bands for 2021-22 are as follows[10]:

Table 3.2: Scottish Income Tax Rates and Bands for 2021-22

Scottish Income Tax Bands	**Name**	**Rate**
£12,571*- £14,667	Starter Rate	19%
£14,668 - £25,296	Scottish Basic Rate	20%
£25,297 - £43,662	Intermediate Rate	21%
£43,663 - £150,000**	Higher Rate	41%
Above £150,000**	Top Rate	46%

*Assumes individuals are in receipt of the Standard UK Personal Allowance.
**Those earning more than £100,000 will see their Personal Allowance reduced by £1 for every £2 earned over £100,000.

[9] Scottish Income Tax Outturn Statistics: 2019 to 2020 - GOV.UK (www.gov.uk)
[10] Information on the rates and bands that apply in Scotland is available on gov.scot

37. A Scottish Rate Resolution setting the Scottish Income Tax rates and bands for 2022-23[11] was approved by MSPs on 2 February 2022. The rates and bands are detailed in Table 3.3.

Table 3.3: Scottish Income Tax Rates and Bands for 2022-2023

Scottish Income Tax Bands	Name	Rate
£12,571* – £14,732	Starter Rate	19%
£14,733 - £25,688	Scottish Basic Rate	20%
£25,689 - £43,662	Intermediate Rate	21%
£43,663 - £150,000**	Higher Rate	41%
Above £150,000**	Top Rate	46%

*Assumes individuals are in receipt of the Standard UK Personal Allowance.
**Those earning more than £100,000 will see their Personal Allowance reduced by £1 for every £2 earned over £100,000.

[11] Scottish Income Tax: 2022-2023 - gov.scot (www.gov.scot)

4. VAT Assignment

The Scotland Act 2016 provided for the first 10 pence of the Standard Rate of Value Added Tax (VAT), and the first 2.5 pence of the Reduced Rate, to be assigned to the Scottish Government. VAT rates will continue to be set at a UK-wide level.

Costs

Table 4.1: Implementation and Administrative Costs

£m	2019-20	2020-21	2021-22 (forecast)
Implementation	0.5	0.4	0.4

38. As part of the Fiscal Framework agreement, the Scottish and UK Governments agreed to share equally all costs incurred as a result of the implementation and administration of VAT assignment. In 2021-22, total forecast costs incurred by HMRC and the Scottish Government were £0.4 million. These costs were split equally between HMRC and the Scottish Government.

Implementation

39. VAT assignment had been expected to commence from April 2021. However, due to uncertainty surrounding the impact of COVID-19 and EU Exit on VAT receipts, the Scottish and UK Governments agreed to delay implementation and to establish how and when VAT assignment is implemented as part of the Fiscal Framework review, due to take place in 2022.

40. Work on developing the VAT assignment methodology was largely paused in 2021-22, pending the outcome of the review.

41. Data on VAT assignment, up to 2019, was published by HMRC on 23 September 2021[12].

Scottish VAT Assignment Forecasts

42. The Scottish Fiscal Commission (SFC) has responsibility for producing forecasts of the VAT that will be assigned to Scotland. Their latest forecast of VAT revenue assigned to Scotland was published in December 2021[13].

43. This forecast has no impact on the Scottish Government's budget as this is a transitional period, where VAT assignment will be forecast and calculated, but not applied to the budget.

[12] Scottish VAT Assignment – Experimental Statistics - GOV.UK (www.gov.uk)
[13] Scotland's Economic and Fiscal Forecasts – December 2021 | Scottish Fiscal Commission

5. Block Grant Adjustments, Reconciliations and Indexation

The Fiscal Framework agreed that the Scottish Government's Block Grant would be adjusted to reflect the impact of the transfer of greater fiscal powers to the Scottish Government. Deductions are made to reflect that the Scottish Government now retains devolved tax revenues and additions are made to reflect that the Scottish Government is now responsible for certain devolved social security benefits. These adjustments are referred to as Block Grant Adjustments (BGAs).

Provisional BGAs

44. The Fiscal Framework sets out that, where the Scottish Budget takes place before the UK Budget, provisional BGAs will be provided to the Scottish Government for budgeting purposes. The framework also notes that these provisional BGAs will be applied to the Scottish Block Grant if the UK Budget has not occurred at least three months before the start of the financial year. Since the UK Budget 2021, published 3 March 2021, took place after the Scottish Budget, provisional BGAs were used to inform the Scottish Budget 2021-22. The provisional BGAs were based on forecasts published by the Office for Budget Responsibility (OBR) alongside the UK Government Spending Review on 25 November 2020.

45. The UK and Scottish Governments agreed that the Scottish Government could choose to use the BGAs provided alongside the later UK Budget if it preferred to do so. However, the Cabinet Secretary for Finance and the Economy decided to use the provisional BGAs to inform the Scottish Budget.

46. In-year reconciliations to the 2021-22 Scottish Budget have been made in the normal way, by comparing the provisional BGAs, which underpinned the Scottish Budget 2021-22, to the BGAs agreed alongside the UK Autumn Budget and Spending Review 2021.[14]

Data update: Fiscal Framework Outturn Report 2021 and Scottish Government's Medium Term Financial Strategy

47. In compliance with the Written Agreement between the Scottish Government and the Finance and Constitution Committee[15], the Scottish Government published a Fiscal Framework Outturn Report on 30 September 2021[16], which set out the impact of tax and expenditure outturn data for the following Scottish budget.

48. As a result of changes to previous publication schedules, the report largely drew upon provisional outturn revenue, expenditure and BGA data. A data update,

[14] For details of the in-year reconciliations applied to the Scottish Budget 2021-22, see tables B.7 and B.12 of The Scottish Government's Medium Term Financial Strategy - gov.scot (www.gov.scot)
[15] Written Agreements - Parliamentary Business : Scottish Parliament
[16] Fiscal framework outturn report: 2021 - gov.scot (www.gov.scot)

which includes final outturn data, was published in the Scottish Government's Medium Term Financial Strategy (MTFS)[17], alongside the Scottish Budget 2022-23.

49. Table B.19 in Annex B of the MTFS sets out that a final reconciliation of negative £15 million would be made to the Scottish Budget 2022-23, which is the net impact of the revenue and BGA reconciliations for Income Tax for 2019-20, and for the BGA reconciliations for fully devolved taxes, Fines, Forfeitures and Fixed Penalties, and Social Security Expenditure for 2020-21.

Income Tax reconciliation

50. Outturn data for Income Tax for 2019-20 was published by HMRC on 22 July 2021 and a reconciliation of negative £34 million was applied to the Scottish Budget 2022-23. This was the third income tax reconciliation since the implementation of the Fiscal Framework. Further information on the reconciliation can be found in the Fiscal Framework Outturn Report 2021[18].

BGA for Low Income Winter Heating Assistance / Cold Weather Payment

51. It was announced in December 2021 that the Scottish Government would introduce a new Scottish benefit, Low Income Winter Heating Assistance, to replace the current Cold Weather Payment scheme in Scotland from winter 2022.

52. A BGA for Low Income Winter Heating Assistance was agreed for the first time alongside the UK Autumn Budget on 27 October 2021 and a BGA of £14 million was applied to the Scottish Budget 2022-23.

53. Due to the substantial volatility of the Cold Weather Payment, paragraph 13 of the Fiscal Framework agreed that the initial baseline addition to the Scottish Budget would be *"an average of the UK government's spending in Scotland on this benefit from 2008-09 to the year prior to devolution."* As Scottish expenditure outturn data for 2008-09 is unavailable, the Scottish and UK Governments agreed that the initial baseline addition would be calculated on the basis of the expenditure outturn from 2009-10 to 2019-20 and forecast data for 2020-21 to 2021-22[19].

54. Furthermore, the UK and Scottish Governments agreed that, for the initial BGA calculation, an average of the expenditure in England and Wales over the same period would be used for the purposes of calculating the percentage growth for UK government Cold Weather Payment expenditure in England and Wales.

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[17] Annex B of the The Scottish Government's Medium Term Financial Strategy - gov.scot (www.gov.scot)

[18] Fiscal framework outturn report: 2021 - gov.scot (www.gov.scot)

[19] Cold Weather payment expenditure outturn data for 2020-21 had not been published at the time of calculating the BGA for the UK Budget 2022-23. 2021-22 outturn data will not be available until summer / autumn 2022.

Table 5.1: Calculation of baselines for Cold Weather Payment BGA

	Outturn						
£m	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**2015-16**
Scotland	53	51	2	8	1	7	3
England and Wales	245	384	127	133	8	4	0
	Outturn				**Forecast**		**Average**
£m	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**2020-21**	**2021-22**	**2009 – 2022**
Scotland	1	22	10	0	21	14	15
England and Wales	2	93	17	0	79	86	91

Latest Forecast BGAs

55. Under the Fiscal Framework, two indexation mechanisms are used to calculate BGAs – the Indexed per Capita (IPC) mechanism and the Comparable Model (CM). In practice, the IPC-calculated BGAs are applied to the Scottish Budget. The latest forecast IPC and CM BGAs, agreed alongside the UK Government Spring Statement on 23 March 2022 are set out in the Scottish Government's Fiscal Framework Data Annex.[20]

[20] Data annex and data update - Fiscal framework: factsheet - gov.scot (www.gov.scot)

6. Borrowing and Scotland Reserve

Scotland-specific economic shock

56. The Fiscal Framework has provisions for a 'Scotland-specific economic shock' (SESS) to be triggered. When this happens, the Scottish Government has access to increased borrowing and reserve flexibility. This provision is triggered when onshore Scottish GDP growth is below one per cent in absolute terms on a rolling four-quarter basis, and one percentage point or more below UK GDP growth over the same period. This can be either on the basis of outturn data, or on the basis of forecasts.

57. The SFC's forecasts in January 2021 projected a SESS occurring in 2021-22, which triggered the provisions of the Fiscal Framework, allowing the Scottish Government to borrow £600 million rather than £300 million per year for forecast error on tax receipts and social security expenditure, and temporarily removing the annual drawdown limits for the Scotland Reserve. These flexibilities apply in the financial years 2021-22 until 2023-24.

58. Although the SFC's latest publication no longer forecasts a Scotland-specific economic shock,[21] these flexibilities will not be withdrawn retrospectively in the event that outturn data indicate that the criteria for a Scotland-specific economic shock are no longer met.

Capital Borrowing

59. Since 1 April 2017, the Scottish Government has had the power to borrow up to £450 million each year, up to a maximum total of £3 billion, to support investment in capital infrastructure.

2021-22 draw down

60. The Scottish Government borrowed £150 million in 2021-22 to support capital expenditure. This is less than the £450 million originally planned.

61. The borrowing was drawn down from the National Loans Fund in full on 3rd February 2022. This will be repaid over a 20 year period, at an interest rate of 1.44% percent.

2022-23 borrowing plans

62. As part of the Scottish Budget 2022-23, a decision has been taken to borrow £450 million to support infrastructure investment.

63. Final decisions on the specific borrowing arrangements for 2022-23 are taken over the course of the year, reflecting an on-going assessment of programme requirements and value for money assessment of the options available. Final borrowing levels may therefore be below initial estimates.

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[21] Scotland's Economic and Fiscal Forecasts – December 2021 | Scottish Fiscal Commission

Capital debt stock

64. The Scottish Government has accumulated £1.8 billion in capital debt as at the end of 2021-22, 60 per cent of its overall limit. Details of the capital borrowing and repayment schedule can be found in Table 6.1.

Table 6.1: Capital Borrowing and Repayment Schedule (£ million)

	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Debt Stock at start of Year	283	607	1,036	1,258	1,617	1,744	1,814	1,726	1,634	1,542
New In Year Borrowing	450	250	405	200	150	-	-	-	-	-
Principal Repayments	-	7	26	52	60	67	71	72	73	74
Interest Repayments	-	8	11	13	14	16	15	14	13	13
Total Resource Cost	**-**	**15**	**37**	**64**	**74**	**83**	**86**	**86**	**86**	**86**
Notional Borrowing Repayments	9	21	21	21	21	21	21	21	21	21
Debt Stock at end of Year	1,036	1,258	1,617	1,744	1,814	1,726	1,634	1,542	1,448	1,354
Percentage of Debt Cap	35%	42%	54%	58%	60%	58%	54%	51%	48%	45%
Headroom	1,964	1,742	1,383	1,256	1,186	1,274	1,366	1,458	1,552	1,646

Resource Borrowing

65. Since 1 April 2017, the Scottish Government has had the power to borrow up to £600 million each year within a statutory overall limit for resource borrowing of £1.75 billion.

66. The Fiscal Framework sets out the conditions and limits for elements of resource borrowing:

i. for in-year cash management, an annual limit of £500 million;

ii. for forecast error in relation to devolved and assigned taxes and social security expenditure, and corresponding BGAs, an annual limit of £300 million; and

iii. for any observed or forecast shortfall in relation to devolved and assigned taxes or social security expenditure incurred where there is or is forecast to be a Scotland-specific economic shock, an annual limit of £600 million.

2021-22 draw down

67. In 2021-22 the Scottish Government borrowed £319 million in respect of final reconciliations relating to 2018-19 Scottish Income Tax and 2019-20 fully devolved taxes and social security BGA reconciliations. This was in line with plans as outlined in the 2021-22 Scottish Budget.

2022-23 borrowing plans

68. In an attempt to manage volatility risk, in 2022-23 Scottish Ministers plan to borrow £15 million to smooth the negative budget impact of forecast errors arising from tax and social security reconciliations.

69. As the MTFS states, the Scottish Government will assess all planned resource borrowing decisions to smooth the funding trajectory over five years.

70. In order to promote budget stability and maintain flexibility in the Reserve, Scottish Government budgets will assume full borrowing against known and/or forecast tax and social security reconciliations. Final in-year borrowing drawdowns will take account of the movement of reconciliations and the overall budget management position.

Table 6.2: Resource Borrowing and Repayment Schedule (£ million)

	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Debt Stock at start of Year	-	207	505	433	330	225	119
New In Year Borrowing	207	319					
Principal Repayments		21	72	104	105	106	86
Interest Repayments		0	4	4	3	2	1
Total Resource Cost		**21**	**77**	**108**	**108**	**108**	**87**
Debt Stock at end of Year	207	505	433	330	225	119	33
Percentage of Debt Cap	12%	29%	25%	19%	13%	7%	2%
Headroom	1,543	1,245	1,317	1,420	1,525	1,631	1,717

Scotland Reserve

71. The Scotland Reserve has applied since 1 April 2017. It replaces the Budget Exchange mechanism and enables the Scottish Government to manage volatility associated with its fiscal powers. The Scotland Reserve is capped in aggregate at £700 million, with annual drawdown limited to £250 million for resource and £100 million for capital. There are no annual limits for payments into the Scotland Reserve.

72. The triggering of a Scotland-specific economic shock has removed the annual drawdown limits on the Reserve. This applies in the financial years 2021-22 until 2023-24. However, the annual cap of £700 million remains.

2021-22 Reserve position

73. The latest forecast Scotland Reserve position is detailed below. 2021-22 drawdown plans are unlikely to change materially however 2021-22 additions are subject to provisional and final outturn processes. The final Scotland Reserve

position for 2021-22 will not therefore be confirmed until later in the calendar year.

Table 6.3: 2021-22 Forecast Reserve position (£ million)

	Resource	Capital	FTs	Total
2021-22 Opening balance - Final Outturn	(405)	(7)	(197)	**(608)**
2021-22 Planned drawdowns	405	7	197	**608**
2021-22 Forecast Additions	(401)	(118)	(62)	**(581)**
Forecast Balance	**(401)**	**(118)**	**(62)**	**(581)**

74. Notwithstanding the flexibilities provided through the triggering of a Scotland-specific economic shock, a reserve capped at £700 million with a maximum limit of £350 million for annual drawdowns severely limits the capacity for Scottish Ministers to plan for the impact of future fluctuations in tax receipts while also prudently managing any underspend across financial years.

7. Social Security

Part 3 of the Scotland Act 2016 contains 14 Sections relating to social security and employment support.

The Scottish Government is responsible for the implementation of these powers, ensuring the safe and secure transition of the benefits being devolved to Scotland and the design of new benefits as part of a Scottish social security system with dignity, respect and fairness at its heart. To achieve this, a Social Security Programme was established and a new agency, Social Security Scotland, created.

Social Security Scotland operates in accordance with the eight principles set out in the Social Security Charter and Social Security (Scotland) Act 2018. This gives the Scottish Parliament greater powers to ensure that social security in Scotland meets the needs of Scottish citizens.

Social Security Scotland is already successfully delivering twelve benefits and, once fully transferred, the Scottish Parliament and Scottish Government will be responsible for the delivery of social security benefits ultimately worth over £5 billion each year in Scotland.

Costs

Table 7.1: Implementation and Administrative Costs

£m	2019-20	2020-21	2021-22
Social Security Scotland	36	130	217
Advice, Policy and Programme	110	123	144
Of which: Programme Implementation	*81*	*104*	*105*

75. The costs set out in Table 7.1 have been updated following last year's report and are based on our latest annual accounts and budget. Social Security Scotland includes a range of administration and operational costs to support the delivery of payments and services. The work that the Scottish Government undertakes is funded from the Advice, Policy and Programme budget line within the Scottish Government's Social Justice, Housing and Local Government Portfolio. The table shows the Resource and Capital costs of the work that the Scottish Government undertakes, including the Implementation Costs of the Social Security Programme. The figure excludes the allocated share of the Scottish Government's Corporate Running Costs and ring-fenced non-cash Depreciation.

76. A more detailed breakdown can be found in the Social Security Programme Business Case (PBC), published in February 2020[22]. The costs detailed in the PBC do not include the impacts of COVID-19, which has had a major impact on the Scottish Government, on Social Security Scotland, and on the Department for Work and Pensions (DWP), whose support we need to transfer social security powers. The PBC will be updated in due course to reflect this impact.

[22] Social Security Programme Business Case - gov.scot (www.gov.scot)

77. The PBC provides a view on the whole-life costs and benefits of the Scottish Government's Social Security Programme, over a 30-year timeframe to 2050. It shows the Scottish Government's investment in creating a new public service for Scotland, co-designed by those with lived experience and built from scratch with dignity, fairness and respect at its heart, and which will deliver for the people of Scotland for years to come.

78. Executive Competence for Carer's Allowance transferred to the Scottish Government on 1 September 2018, and for Attendance Allowance, Disability Living Allowance, Personal Independent Payment, Industrial Injuries Disablement Benefit, and Severe Disablement Allowance on 1 April 2020. The Department for Work and Pensions continues to administer these benefits through Agency Agreements on behalf of Scottish Ministers. For 2021-22, Social Security Scotland expects £76 million to be spent on Agency Agreements. The Agency Agreement costs that the Scottish Government accepts from the Department for Work and Pensions are scrutinised to ensure validity, consistency and compliance with jointly agreed inclusions and exclusions. These costs will reduce over time as Social Security Scotland begins to fully administer these benefits.

79. The Scottish Government funds implementation costs incurred by the UK Government as a result of the devolution of welfare powers. For 2021-22 the PBC includes a forecast of £17 million for implementation recharges.

The Social Security (Scotland) Act 2018

80. In 2021-22, the Scottish Parliament passed legislation[23] to underpin the delivery of the Social Security (Scotland) Act 2018, which sets out the over-arching legislative framework for the Scottish Government's Social Security powers.

81. This included various regulations relating to the introduction of Child Disability Payment and Adult Disability Payment. In addition, there were amending regulations relating to Scottish Child Payment, Best Start Grant and Child Winter Heating Assistance, as well as the annual legislation relating to the uprating of Young Carer's Grant, Funeral Support, Best Start Grant, Child Winter Heating Assistance, Scottish Child Payment, Adult Disability Payment and Child Disability Payment.

Carer's Allowance Supplement (Scotland) Act 2021

82. In October 2021, the Scottish Parliament passed the Carer's Allowance Supplement (Scotland) Act 2021. This Act ensured carers in Scotland in receipt of Carer's Allowance Supplement received a further Coronavirus Carer's Allowance Supplement in December 2021, resulting in eligible carers in Scotland receiving up to £694.20 more support in 2021 compared to those in the rest of the UK. The Act also contains an enabling provision that allows for a more flexible approach to future payments should the circumstances require it.

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[23] Legislation passed in 2021 - Legislation.gov.uk ; Legislation passed in 2022 - Legislation.gov.uk

Social Security Scotland

83. Social Security Scotland delivers its services in accordance with the eight principles set out in the Social Security (Scotland) Act 2018[24] and the Social Security Charter[25]. Foremost amongst these principles is the requirement that people be treated with dignity, fairness and respect.

84. In November 2021 the combined results from the first and second rounds of the Social Security Scotland Client Survey showed that people have a very positive experience of Social Security Scotland. 92% of people responding to the survey said their overall experience was 'very good' or 'good'; and 94% of people who had been in touch with client advisers reported they had been treated with kindness.

85. Social Security Scotland is now well established and directly employs over 1,800 Full Time Equivalent staff across its various sites (as of 31 December 2021)[26]. It is forecast to deliver around £3.5 billion of benefit payments by the end of 2021-22, £3.3 billion through Agency Agreements and around £0.2 billion directly. Further details of this spending will be provided in Social Security Scotland's Annual Report and Accounts for the period, which will be published in winter 2022, in accordance with statutory timescales.

86. With the launch of the Adult Disability Payment pilot in March 2022, Social Security Scotland's service has now expanded to twelve separate benefit payments. It will continue to build capacity and capability in 2022-23 in preparation for the launch of the remaining devolved benefits.

Scottish Government policy development and implementation

87. During 2021-22, the Scottish Government has continued to adapt to the challenges of COVID-19, ensuring the safe and secure delivery of the remaining devolved benefits.

88. Together with Social Security Scotland, we have introduced our first application-based disability benefit, Child Disability Payment, while the systems and capability continue to be developed to deliver the remainder of the devolved benefits outlined in the Social Security (Scotland) Act 2018.[27]

89. We have further benefit delivery underway, including: (i) launching Adult Disability Payment – the largest and most complicated of our new disability benefits – with a pilot in spring 2022 and full national rollout by summer 2022; (ii) doubling Scottish Child Payment in April 2022 and increasing Scottish Child Payment to £25 at the same time as extending it to eligible under 16s by the end of 2022, and

[24] Social Security (Scotland) Act 2018 (legislation.gov.uk)
[25] Social Security Scotland - Our Charter
[26] Social Security Scotland - Workforce Information Statistics - December 2021
[27] Social Security (Scotland) Act 2018 (legislation.gov.uk)

(iii) introducing our new £50 Low Income Winter Heating Assistance this winter, replacing Cold Weather Payment in Scotland.

90. We are working with carers and stakeholders to develop a replacement benefit for Carer's Allowance (currently known as Scottish Carer's Assistance) that works better for the people of Scotland – maintaining the extra amount provided by Carer's Allowance Supplement and including extra support for those with multiple caring roles. We launched a public consultation on these proposals in February 2022.

91. We continue to work with the Department for Work and Pensions, and our other delivery stakeholders, to agree an ambitious but deliverable timetable for launching the remaining devolved benefits, and completing case transfer, taking into account what we have learned during the COVID-19 pandemic.

Benefits Launched

Child Disability Payment

92. Delivery of Child Disability Payment began with a pilot to take new applications from children in the local authority areas of Perth and Kinross, Dundee City and Western Isles in July 2021. The pilot was followed by a national launch in November 2021. Child Disability Payment is the first of the complex disability benefits to be introduced nationwide by the Scottish Government and replaces Disability Living Allowance for children, which was delivered by the Department for Work and Pensions. The payment provides financial assistance to help meet the additional costs associated with having a disability, for eligible disabled children up to the age of 18 years old.

93. The phased transfer of cases for children aged over 15 and a half to 17 from Disability Living Allowance for children to Child Disability Payment began in October 2021, and children under 15 and a half will have their awards transferred from spring 2022. Social Security Scotland aims to have completed the transfer for everyone in receipt of Disability Living Allowance for children by spring 2023.

Disability Assistance

94. A key priority is the safe and secure transfer of Disability Assistance (Adult Disability Payment, Child Disability Payment and Pension Age Disability Payment), including existing Scottish clients, from the UK Government to Social Security Scotland, which means that in the immediate future fundamental changes will not be made to the existing benefit structure or rules. However, a number of ways have already been identified to provide disabled people with a fundamentally different experience when applying for and receiving the support to which they are entitled.

95. Adult Disability Payment, which replaces the UK Government's Personal Independence Payment, began its pilot in spring 2022 and will be available across Scotland by summer 2022. Work is ongoing with stakeholders to make

significant changes to how disabled people in Scotland experience accessing disability assistance, such as through an application process which is inclusive, accessible, provided in a range of formats, available through a number of routes (online, phone, post and in-person) and transparent. The Department for Work and Pensions assessments have been replaced by consultations which will be undertaken by a Social Security Scotland practitioner. These consultations will only be necessary when there is no other way of gathering the information to make a determination on a person's entitlement.

96. Pension Age Disability Payment will replace Attendance Allowance, a benefit for people aged over 65 years old, and currently administered by the Department for Work and Pensions. It is awarded to help with extra costs if a person has a disability severe enough that they need someone to help look after them. It is the Scottish Government's intention to provide this form of assistance for the same purpose - to mitigate costs associated with care needed as a result of having a disability. The Scottish Government is continuing to work with delivery partners including the UK Government to re-plan delivery of Pension Age Disability Payment and agree when it will be possible to launch the new benefit in Scotland.

Child Winter Heating Assistance

97. Child Winter Heating Assistance was introduced in November 2020 for children and young people who receive the highest rate of the care component of Disability Living Allowance or Child Disability Payment for at least one day of the qualifying week in September. The purpose of this form of assistance is to provide some mitigation for the additional costs of heating a home to meet the needs of a disabled child or young person, both during the day and at night.

98. The assistance consists of an annual payment for each eligible child or young person (£200 in 2020 and £202 in 2021), with most payments being made automatically to families. 14,015 Child Winter Heating Assistance payments were made in winter 2020-21, with a total value of £2.8 million. The Scottish Government widened the eligibility criteria in November 2021 to include young people who receive the enhanced rate of the daily living component of Personal Independence Payment.

Scottish Child Payment

99. The Scottish Child Payment was first introduced in February 2021 and, as of 31 December 2021, this unique benefit was reaching 104,000 children under six with £10 per week payments. The total value of Scottish Child Payments issued to clients during that period was £45.2 million, supporting people across all 32 local authorities in Scotland.[28]

[28] Social Security Scotland - Scottish Child Payment: high level statistics to 31 December 2021

100. The Scottish Government has announced the payment will be doubled to £20 in April 2022 and plans to extend the payment to all eligible children under 16 years old by the end of 2022, when the payment will further increase to £25. Once fully rolled out, around 330,000 children could be in receipt of the Scottish Child Payment, with 500,000 children forecast to be lifted out of poverty in 2023-24.

101. Together with Best Start Grant and Best Start Foods, this will provide a package of financial support worth a maximum of over £10,000 by the time an eligible family's first child turns six.

Carer's Allowance Supplement

102. Carer's Allowance Supplement was the first payment made by Social Security Scotland and uplifts Carer's Allowance for eligible Scottish carers by around 13%. Since its launch in 2018, around 659,000 Carer's Allowance Supplement payments totalling £188.04 million have been made to around 126,000 Scottish carers.[29]

103. Around 84,000 carers received an extra Coronavirus Carer's Allowance Supplement in June 2020. The Scottish Government made another extra payment of Carer's Allowance Supplement in December 2021, to support carers with the impacts of the pandemic. This meant almost 82,000 eligible carers in Scotland got up to £694.20 more support in 2021 compared to those in the rest of the UK.[30]

[29] Social Security Scotland - Summary statistics for Carer's Allowance Supplement to October eligibility date 2021

[30] Social Security Scotland - Summary statistics for Carer's Allowance Supplement to October eligibility date 2021

8. Employability

The Scotland Act 2016 gave Scottish Ministers the powers to deliver employability support that helps disabled people or those at risk of long-term unemployment to seek, obtain, and retain employment.

Costs

Table 8.1: Implementation and Administrative Costs

£m	2019-20	2020-21	2021-22 (forecast)
Implementation	0	0	0
Administration/Operation	18.7	25.7	29.6

Main Developments

104. Fair Start Scotland (FSS) was launched in April 2018 and provides tailored, person-centred support to people who need help to find and stay in work, and achieve their full potential. Unlike previous UK Government initiatives, participation in FSS is voluntary.

105. The service is currently delivered by a mixed economy of public, private, and third sector service providers, covering all of Scotland in nine regional "Lots".

106. The Scottish Government regularly publishes national statistics releases on FSS service performance, alongside independent evaluation reports and an annual report to the Scottish Parliament. The latest statistics release[31], covering the period from launch to end of December 2021, shows that the service has had 41,844 starts and 14,349 participants have already moved into work.

107. Annual and evaluation reports for 20-21[32] show that FSS performed well overall, despite the ongoing economic and labour market uncertainty and continued local and national COVID-19 restrictions. In response to statistics and evaluation findings, FSS continuous improvement activity has focused on enhancing engagement with under-represented and under-supported groups, identifying local 'test and learn' opportunities and developing better support for participants with more complex needs. Furthermore, an economic evaluation[33] of the service demonstrated that FSS provides value for money and a positive return on investment, with benefit-cost ratios of 1.4, 1.6 and 2.0 from the perspective of participants, public finances and society, respectively.

108. Scottish Ministers are committed to supporting the continued development and delivery of devolved employability services. The Scottish Government will continue to work with local government, the third sector and other partners to

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[31] Latest Statistics release: Scotland's Devolved Employment Services: statistical summary - gov.scot (www.gov.scot)

[32] Annual Report: Fair Start Scotland: annual report - year 3 - gov.scot (www.gov.scot)
Evaluation Report: Fair Start Scotland: evaluation report 4 - year 3 overview - gov.scot (www.gov.scot)

[33] Fair Start Scotland: economic evaluation - gov.scot (www.gov.scot)

support the ambition of aligned and integrated services as set out in its No One Left Behind Strategy[34].

109. As part of the Scottish Government's economic response to the impacts of the COVID-19 pandemic, Scottish Ministers have extended the delivery of FSS contracts to the end of March 2023 to allow for more people to benefit from support. In line with Scottish Fiscal Commission forecasts, a budget of £24.4 million has been allocated for FSS delivery in 2022-23, ensuring that support is available for those in our communities who need it most.

[34] No One Left Behind: delivery plan - gov.scot (www.gov.scot)

9. Fiscal Framework Implementation

The Fiscal Framework agreement between Scottish and UK Governments determines how the Scottish Government is funded, and underpins the powers set out in the Scotland Act 2016.

This chapter covers further areas of Fiscal Framework implementation relevant to this report: progress on policy spillovers and the review of the Fiscal Framework.

Progress on policy spillovers

111. The Fiscal Framework makes provision for policy spillovers – instances when one government makes a policy decision that affects the tax receipts or expenditure of the other. In these circumstances, the decision-making government should reimburse the other in cases of additional costs, or receive a transfer if there is a saving. Any decision or transfer relating to a spillover effect must be jointly agreed by both Governments.

Personal Allowance spillover

112. The Scottish and UK Governments continue to seek a resolution to the outstanding dispute concerning a spillover claim in relation to UK Government increases to the income tax Personal Allowance. These increases have a disproportionate impact on Scottish tax receipts, through the operation of the Fiscal Framework. The Cabinet Secretary for Finance and the Economy and the Chief Secretary to the Treasury (CST) discussed the next steps on the matter at a meeting of the Joint Exchequer Committee (JEC) on 3 February 2022. Ministers agreed that officials will work together with a view to publishing a paper on the jointly agreed analytical framework that sets out how the dispute is assessed under both the Scottish Government and HM Treasury positions. Officials will also undertake further work on options to resolve the dispute for consideration at the next JEC meeting.

113. While the scale of the financial impact is disputed, both parties accept that a direct spillover effect arises from the UK Government's changes to the Personal Allowance and that the Scottish Government is due a transfer of funding. The Scottish Government has included a funding assumption within Scottish Budget 2022-23 relating to the dispute, on a risk-assessed basis, and will seek to conclude the dispute process at the earliest possible opportunity to ensure that the funding is available to support the funding position for 2022-23. Issues relating to the spillovers provisions should be considered in more detail as part of the forthcoming review of the Fiscal Framework.

Fiscal Framework Review

114. The Fiscal Framework agreement states that a review of the Fiscal Framework should be undertaken by the Scottish and UK Governments after the Scottish Parliament elections in 2021, preceded by an independent report.

115. To support a wide-ranging review, the Scottish Government pursued a broad scope to the independent report, highlighting its role in establishing a wide,

objective evidence base to inform the review. However, given the position of the CST and the need to make progress, at a meeting of the JEC in October 2021, the Cabinet Secretary for Finance and the Economy agreed with the CST that the subject of the independent report will be the Block Grant Adjustments arrangements only. Both ministers agreed that the review will be broader in scope than the report and that preparations for the review can be conducted in parallel to the work on the independent report. As part of the process, input is being sought from a wide range of stakeholders to help develop a robust evidence base for both the report and the review.

116. The arrangements for the independent report are subject to joint agreement between the Scottish and UK Governments. At the time of writing this Scotland Act Implementation Report, the arrangements are being finalised and the report will be commissioned as soon as possible.

Scope of the Review

117. The Medium Term Financial Strategy, published alongside the Scottish Budget 2022-23[35], sets out the Scottish Government's position on the scope of the review. The Scottish Government reasons that the scope of the review should include both an assessment of how the framework has operated to date, as well as a wider consideration of the levers that the Scottish Government has to manage the risks to which the Scottish Budget is exposed, particularly in light of the COVID-19 pandemic.

118. The Scottish Government's objectives on the review are to ensure that funding arrangements are fair; that budget volatility is minimised; and that the Scottish Government has the powers and flexibility to manage risks and to support economic recovery in the years ahead.

119. The scope and arrangements for the review will be discussed at a JEC meeting in due course with a view to commence the review as early in 2022 as possible. The arrangements for the review depend on joint agreement with the UK Government, so progress on scope and timing for the review relies on their equal commitment to achieve this ambition. At a JEC meeting on 3 February 2022, the Cabinet Secretary for Finance and the Economy and the CST expressed a desire to avoid unnecessary delays to starting the Fiscal Framework review, and agreed to continue a dialogue and joint preparations for the review while the independent report is underway.

120. Beyond the input of the two governments, the Scottish Government welcomes the agreement with the UK Government that stakeholders' views will also be an integral part of the process, involving input from parliamentary committees and wider stakeholders.

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[35] 4. Managing Fiscal Risks - The Scottish Government's Medium Term Financial Strategy - gov.scot (www.gov.scot)

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