

T: 0845 774 1741

E: scottish.ministers@scotland.gsi.gov.uk

Kenneth Gibson MSP
Convenor
Finance Committee
Scottish Parliament
EH99 1SP



4 September 2012

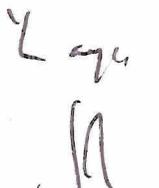


MEETING OF THE JOINT EXCHEQUER COMMITTEE

The Scottish and UK Governments have agreed to provide the minutes of Joint Exchequer Committee (JEC) meetings to the Scottish Parliament (through the Finance Committee) and to the UK Parliament (through the Scottish Affairs Committee).

During the passage of the Scotland Act 2012 Scottish and UK Ministers were also asked by the Scottish Parliament's Scotland Bill Committee for access to the papers for the first JEC meeting on 27 September 2011. The Scottish Government and the UK Government have agreed that these papers should be provided. We are also committed to publishing an annual report on progress towards implementation of the Scotland Act 2012, and this will be a key vehicle to enable scrutiny our progress and a sign of our continued commitment to transparency

I enclose copies of the minutes for the JEC meetings on 27 September 2011 and 18 June 2012, and the papers for the former. I am copying this letter (without enclosures) to the Secretary of State for Scotland, the Chief Secretary to the Treasury, the Exchequer Secretary to the Treasury and the Cabinet Secretary for Parliamentary Business and Government Strategy as members of the Joint Exchequer Committee.



JOHN SWINNEY

JOINT EXCHEQUER COMMITTEE

JEC/11/01

27 September 2011

Present:

UK Government

David Gauke, MP, Exchequer Secretary (Chair)
Michael Moore, MP, Secretary of State for Scotland
Danny Alexander, MP, Chief Secretary to the Treasury (part of meeting)

Scottish Government

John Swinney, MSP, Cabinet Secretary for Finance, Employment and Sustainable Growth
Bruce Crawford, MSP, Cabinet Secretary for Parliamentary Business and Government Strategy

In Attendance:

UK Government

David Silk, HM Treasury	Paul Doyle, HM Treasury
Oliver Haydon, HM Treasury	John Mundy, HM Treasury
Lucy Proctor, Scotland Office	Doug Stoneham, Her Majesty's Revenue and Customs
Alisdair McIntosh, Scotland Office	

Scottish Government

Alyson Stafford, DG Finance	Gerald Byrne, International & Constitution
Gary Gillespie, Chief Economic Adviser	Gill Glass, Private Secretary
	Paul Boylan, Private Secretary

Joint Secretariat:

Jacqui Bishop, HM Treasury	Alistair Brown, Scottish Government
Chris Flatt, Scotland Office	Elsbeth Hough, Scottish Government

1. The first meeting of the Joint Exchequer Committee took place in St Andrew's House, Edinburgh, hosted by the Scottish Government. The Chair welcomed participants to this initial meeting, noting that he considered the JEC to be a valuable new forum for discussion of the implementation of the financial provisions which formed key elements of the Scotland Bill. The Chair said that the UK Government had been pleased to accept the proposal that the chairmanship of the Committee should alternate between the two Governments. There were many issues for discussion that would be of importance to both Governments including data sharing and milestones for Scotland Bill implementation.
2. The Cabinet Secretary for Finance, Employment and Sustainable Growth welcomed participants to St Andrew's House and said that the Scottish Government looked forward to fruitful discussions at the JEC. The Scottish

Government was committed to working jointly and constructively with the UK Government to find a joint approach acceptable to both Governments.

Key Milestones

3. The Secretary of State for Scotland introduced a paper on Key Milestones for Scotland Bill implementation. The following points were raised in discussion:

- the content of the paper drew on the text of the Command paper, “Strengthening Scotland’s Future” which had been published alongside the draft Scotland Bill on 30 November 2010. The paper aimed to set out, briefly, the process for implementation of the provisions contained in the draft Bill and Command paper.
- the paper was a useful starting point; further work was required to be taken forward by officials from both Governments in three areas:
 - First, to develop a shared understanding of the critical path for implementation.
 - Second, it would also be essential to ensure that there would be access to necessary information together with active engagement by Ministers and senior officials from both Governments to provide assurance to the JEC.
 - Third, it would be helpful for the detailed references at table 1 in the paper to commencement of the various provisions to be amended to take account of commencement arrangements that the Scottish Government had proposed in respect of income tax powers, specifically that formal commencement would be subject to the approval of the Scottish Parliament.
- Both governments were committed to working jointly and constructively and to ensuring that the financial provisions in the Bill were implemented in a way that would be fair and that respected agreed principles.
- There were different views on the approach to commencement. From one perspective, proposals for joint commencement reflected the need for assurance about the effect of technical but potentially very significant financial arrangements in Scotland where a high level of detail would not be available for some time. It was important to focus on the shared ambition to achieve an outcome that was fair, appropriate and non-detrimental and would meet the approval of both Parliaments.
- the Scottish Parliament would need to consider the Legislative Consent Motion (LCM) in early 2012. The information that would then be available on the implementation of the financial provisions was unlikely to provide the level of reassurance the Parliament would require to consent finally to the Bill’s proposals. Inclusion of a commencement provision requiring the consent of the Parliament, would enable the Parliament to consent

formally to the arrangements agreed between the governments, based on full information, at the appropriate time.

- From the other perspective, the Scotland Bill as it had been developed set out a high degree of certainty; the introduction of commencement orders would introduce uncertainty which would be undesirable and cause delay.

4. The Committee agreed that officials of the Scottish and UK Governments should be asked to develop further the helpful first analysis of key milestones and to update the paper with a view to agreeing this in correspondence. Officials were also asked to look at precedents for commencement orders and to give further consideration to the options.

Terms of Reference

[The Chief Secretary to the Treasury joined the meeting during this item].

5. The Chair introduced the Joint Secretariat's paper on the draft Terms of Reference. This set out the UK Government's proposed Terms of Reference at Annex A, which included a number of amendments that had been proposed by the Scottish Government. Further proposed amendments from the Scottish Government were attached at Annex B. Two significant areas of difference remained: the scope and focus of the Committee; and the arrangements for decisions in the event of a failure to reach agreement. The following points were raised in discussion:

- On scope and focus, it was noted that the JEC was the only forum which provided the opportunity for Scottish and UK Ministers to discuss the important and very substantial issues to be addressed in implementing the financial provisions in the Scotland Bill;
- there were other forums to which Ministers could take other issues for consideration;
- the JEC should focus on Scotland Bill implementation;
- the scope of the Committee should not be restricted to the implementation of the Scotland Bill, important as this was;
- it would not be acceptable for decisions to be imposed by the UK Government where no agreement could be reached at the JEC;
- there was a clear shared ambition and an expectation to reach agreement on matters brought to the JEC for decision;
- proposals put forward for a requirement for agreement to be reached were thought to run contrary to the existing devolution settlement. This could be represented as shift in the competence of the two Governments which it would not be appropriate for this Committee to determine;

- it was important that the Terms of Reference should be drafted with sufficient clarity to endure beyond existing political incumbencies.

6. The Committee agreed that officials from the Scottish and UK Governments should be asked to propose alternative wording on the areas on which no agreement had been reached in this meeting and to ensure that the draft Terms of Reference fully captured the objective of the Committee to reach joint agreement, with a view to subsequent consideration in correspondence.

Block Grant Adjustment

7. The Chief Secretary introduced the UK Government's paper on Block Grant adjustment. This set out high-level principles which would set the framework for development and agreement of a mechanism for block grant adjustment. A suitable mechanism would be consistent with the principles described. The following points were made in discussion:

- This was a useful paper: the principles provided a helpful framework within which to design a mechanism. The inclusion in the principles of a reference to dealing with the effects of policy spillover was welcomed.
- the work to be carried out by the Office of Budget Responsibility would be critical.
- the principles proposed would enable a range of mechanisms to be considered, including the model proposed by Professor Gerald Holtham which was understood to be of interest to the Scottish Government and which the UK Government also considered to have merit.
- the point about access to information was critical. It was essential that the Scottish Government could access, interrogate and understand relevant data held by HMR.
- there was a shared ambition to keep administration costs low and to ensure that both Governments had access to the right factual information, which might take some time to gather, with a consequent potential impact on the selection of the block grant mechanism.

8. The Committee agreed the principles outlined in the block grant adjustment paper as the basis for further work on options for mechanisms.

Communications

9. The Chair noted that it was likely that Ministers from each administration would be required to report to their respective Parliaments on the outcome of the meeting and noted that it was not proposed to publish a joint statement on this occasion.

10. **The Committee agreed** that public statements made by each Government would be in line with the proposed text of the draft Terms of Reference on confidentiality, on which the two Governments were in agreement.

Next meeting

11. The Chair reminded participants that the next meeting of the JEC would be chaired by the Cabinet Secretary for Finance, Employment and Sustainable Growth, in London, in spring 2012.

Joint Secretariat to the JEC

JOINT EXCHEQUER MEETING – PAPERS

PROPOSED AGENDA

27 SEPTEMBER 2011

**Conference Room C on the third floor of St Andrew's House, 1 Regent Road,
Edinburgh,**

12.15 – 13.15

1. Key milestones: introduced by the Secretary of State for Scotland, Michael Moore, MP [10 minutes] UK Paper JEC 11/01/01

2. Terms of Reference for Committee: introduced by the Exchequer Secretary to the Treasury, David Guake MP [20 minutes]. JEC Paper 11/01/02 *(to be issued by Scottish side of the Joint Secretariat)*

3. Principles for block grant adjustment: introduced by the Chief Secretary to the Treasury, Danny Alexander MP [15 minutes] UK Paper JEC 11/01/03

4. Any Other Business: introduced by the Exchequer Secretary to the Treasury, David Gauke MP [5 minutes]. Please note this agenda item does not have a paper.

JOINT EXCHEQUER COMMITTEE

27 SEPTEMBER 2011

Paper: UK Paper JEC 11/01/01

Agenda Item 1: KEY MILESTONES

Paper prepared on behalf of: Secretary of State for Scotland

Purpose

1. This UK paper sets out the key activities to be undertaken, decisions to be made and milestones to be met to achieve successful implementation of the financial provisions of the Scotland Bill. This will continue to be refined as the project progresses, and is presented here for initial consideration by Committee members.

Background/Context

2. The UK Government's Command paper, "Strengthening Scotland's Future", published on 30 November 2010 set out a timetable for implementation of the proposals in the Scotland Bill including the devolution of stamp duty land tax, landfill tax, income tax and borrowing powers. Aspects of this proposal, in

particular borrowing powers and the cash reserve were subsequently revised in a Written Ministerial Statement tabled jointly by the Secretary of State for Scotland and the Chancellor of the Exchequer on 13 June 2011.

3. It is envisaged that both Governments will work to these revised milestones to ensure the successful implementation of the financial provisions of the Scotland Bill, and any significant risks to delivery can be put forward for discussion at the JEC.

Discussion

4. The different provisions of the Scotland Bill have different dates from which they will take effect.

Table 1: High-level summary of commencement dates for finance provisions¹

Prepayments [introduced]	April 2011
Power to request new taxes	From enactment of the Bill
Scottish stamp duty land tax and landfill tax to be introduced	April 2015
Current and capital borrowing powers introduced	April 2015
Scottish rate of income tax to commence	April 2016

5. To achieve these timescales, there are a significant number of actions that will need to be undertaken and decisions that will need to be made. The implementation teams in both the Scottish

¹ Based on UK Government Command Paper *'Strengthening Scotland's Future'*, 30 November 2010, and UK Government Written Ministerial Statement, 13 June 2011

Government and UK Governments are developing a shared, detailed plan of activities, decisions, dependencies and milestones.

6. An initial outline of key activities and decisions is attached at **Annex A**, with a high-level overview of key milestones at **Annex B**. These tools will continue to be developed and will be shared regularly with the Committee and used to inform the forward agenda for JEC meetings

Conclusion

8. The Committee is invited:
 - (a) to discuss the key milestones;
 - (b) to note / consider the key implementation deadlines to ensure successful implementation of the financial provisions in the Scotland Bill.

JOINT EXCHEQUER COMMITTEE: KEY MILESTONES

Initial overview of key decisions and actions

1. Scottish Government and UK Government officials have begun to identify the key actions to be undertaken and decisions to be made in order to meet the implementation timetable set out in the November 2010 Command Paper and subsequent Written Ministerial Statement.
2. This will allow for a 'critical path' to be identified, with key milestones that must be met in order to ensure implementation stays on track.
3. This UK paper is presented as a work in progress, and will be further refined through the project planning process. It will be used to inform future JEC meetings.

Activity/decision	Anticipated date	Owner
Phase 1: present date to enactment of the Scotland Bill (assumed April 2012)		
Agree principles for block grant adjustment and initial analysis	Q4 2011	Both
Finalise details for operation of cash reserve and prepayments	Q4 2011	UK Government in consultation with Scottish Government
Agree Memorandum of Understanding between HMRC and Scottish Government	Q1 2012	Both

Discussions on proposed process for considering new taxes	Q1 2012	Both
Begin consultations on Stamp Duty Land Tax and Landfill Tax	Q1 2012	Scottish Government
Phase 2: April 2012 to April 2015		
Begin developing forecasting methodology	By Q2 2012	Office of Budget Responsibility
Discussions on degree of transparency required for Scottish rate of income tax	By Q1 2014	Both
Confirm operation of block grant adjustment and 'no detriment' principles	By Q3 2014	UK Government, in consultation with Scottish Government
Finalise requirements for IT system to support Scottish rate of income tax	By Q3 2014	HMRC in consultation with Scottish Government
Finalise arrangements for 'switching off' SDLT and LfT and introducing new land and landfill taxes	By Q4 2014	Both
Phase 3 - April 2015 to April 2016		
Set Scottish rate to take effect from 2016	By Q4 2015	Scottish Government
Phase 4 - April 2016 to April 2019		
Monitor receipts and make arrangement for permanent	By Q2 2019	Both

adjustment		
------------	--	--

RESTRICTED
RESTRICTED: JOINT EXCHEQUER COMMITTEE

		Scottish Rate of Income Tax	Block Grant adjustment	Fully devolved taxes	New taxes	Borrowing powers	Cash reserve	External events	JEC meetings
Tranche 1	2011	Q1							
		Q2				Scottish Ministers are able to make prepayments for FBRC	Scottish Ministers are able to make up to £125m of savings into the reserve over the next 5 yrs		
		Q3						Second Reading of Bill in Lords;	JEC
		Q4		Principles for adjustment agreed; Joint analysis begins				Scottish Parliament Scotland Bill Committee report expected;	
Tranche 2	2012	Q1	Agree MoU for relationship between HMRC and SG		Scottish Government publish proposals for devolved taxes			LCM vote expected. Second JEC before Bill receives Royal Assent;	JEC
		Q2	HMRC publish technical note on issues relating to income tax (pensions, gift aid etc)			Ability to introduce new taxes in Scotland, with UK agreement, from Royal Assent of Bill		Bill expected to receive Royal Assent. First OBR forecast of Scottish taxes;	
		Q3			Start IT development				
		Q4		JEC discussion of options	Bills for devolved taxes introduced to Scottish Parliament				JEC
Tranche 2	2013	Q1							
		Q2			Royal Assent in Scottish Parliament for Bills on devolved taxes				JEC
		Q3							
		Q4							JEC
Tranche 2	2014	Q1	Agree approach to communications for Scottish rate.						
		Q2							JEC
		Q3	IT development starts	Final decision on adjustment mechanism must be made before this point					
		Q4			Agree that Scottish Government ready to proceed with new SDLT and LFT			Last point by which UK Spending Review must be published	JEC
Tranche 3	2015	Q1							
		Q2			SDLT and Landfill tax "switched off" in UK. New Scottish SDLT and Lft commence.	Current and capital borrowing powers take effect		UK Parliamentary Elections	JEC
		Q3	HMRC send mailshot to Scottish taxpayers.						
		Q4	HMRC release information to software developers. Scottish Ministers set rate of Scottish income tax						JEC
Tranche 3	2016	Q1					5 year time limit elapses on discretionary savings into Scottish Cash Reserve		
		Q2	Scottish Rate of Income Tax begins				Cash Reserve available to hold excess income tax receipts (compared to forecast)	Scottish Parliamentary Elections	JEC
		Q3							
		Q4							JEC

JOINT EXCHEQUER COMMITTEE

27 SEPTEMBER 2011

Paper: JEC paper 11/01/03

Agenda Item 2: Terms of Reference for the Committee

Paper prepared on behalf of: Joint Secretariat to the Committee.

[Scottish Government element of the Secretariat is expected to issue this paper before the meeting].

JOINT EXCHEQUER COMMITTEE

27 SEPTEMBER 2011

Paper: UK Paper JEC 11/01/04

Agenda Item 3: Principles for the block grant adjustment

Paper prepared on behalf of: Chief Secretary to the Treasury

Block Grant Adjustment Mechanism Principles

1. The aim of this paper is to propose a set of principles to provide the overarching framework for the block grant adjustment mechanism. An initial assessment of the key milestones for the work of designing and agreeing the mechanism is set out along with the milestones for the wider programme in the UK paper JEC/11/01/01.

Background

2. The Scotland Bill Command Paper sets out that following devolution of additional tax raising powers to the Scottish Government there will be a reduction in the block grant. This will be done in three phases:

- Phase 1 - in April 2015 there will be a one-off reduction to reflect the devolution of Stamp Duty Land Tax and Landfill Tax which will then be deducted from the block grant for all future years.

- Phase 2 – in April 2016 an annual deduction will be made to the block grant during the transition period based on an OBR annual forecast of Scottish income tax receipts. The UK Government will bear the risk of any deviation of outturn from forecast.
- Phase 3 – following the transitional period lasting 2 or 3 fiscal years there will be a one off deduction to the block grant with the total budget derived by the Barnett formula adjusted proportionally going forward to make this deduction permanent.

3. The Scotland Bill Command Paper states that deciding how to adjust the block grant “*is fundamental to the future success of the new financing arrangements*”. Agreeing a methodology for the Scottish Rate of Income Tax block grant adjustment mechanism is key to ensuring that implementation of the financial proposals in the Scotland Bill delivers a fair and equitable outcome in terms of funding to support public services and investment in Scotland, while recognising the UK Government’s objectives of increased transparency and accountability in Scottish public finances.

4. The proposed principles are intended to incorporate these ambitions into a framework for assessing potential mechanisms for consideration at a future meeting of the Joint Exchequer Committee.

Principles

5. The nine proposed principles are set out in Annex A of this paper and cover the key areas for this work of design, implementation, operation and review.

Conclusion

6.The Committee is invited:

(a) to discuss the principles for this work, as set out in Annex A;

(b) agree the process for finalising the principles (e.g. in correspondence)

Block Grant Adjustment Mechanism – A set of principles

Design

1. Apply the overarching objective of fairness to both the UK and Scottish Governments by:
 - a) limiting the risk of an unintended transfer of resources one way or the other;
 - b) ensuring that the mechanism is not, when implemented, designed to gain advantage in one set of fiscal circumstances or another;
 - c) considering the effects of a shared tax base (including issues related to policy spillover and tax avoidance).
2. Ensure the mechanism delivers on the Scotland Bill's aims to increase financial accountability and gives the Scottish Parliament a direct financial stake in Scotland's economic success;
3. Ensure the mechanism is consistent with Azores criteria and State Aid principles;
4. Ensure the sustainability of the system to adapt to future decisions on tax devolution;

Implementation

5. Ensure that, when the system is introduced it does not cause an unmanageable change in the Scottish budget (up or down) in the first year;

Operation

6. Ensure that the necessary information and data is shared on a timely and accurate basis to allow both the UK and SG to plan ahead;
7. Ensure the mechanism delivers value for money by designing a model that is relatively simple to implement and operate and incurs minimal administrative cost;

Review

8. Apply principles of transparency; and
9. Review to ensure that the system remains fair and 'fit for purpose'.

Paper:JEC/11/01/02

JOINT EXCHEQUER COMMITTEE

27 SEPTEMBER 2011

Agenda item 2

JOINT EXCHEQUER COMMITTEE: DRAFT TERMS OF REFERENCE

Purpose

1. This paper proposes draft Terms of Reference for the Joint Exchequer Committee for consideration by the Committee members.

Background/Context

2. The UK Government's Command paper, "Strengthening Scotland's Future" published on 30 November 2010 set out a proposal for a bilateral tax Committee, comprising Ministers of both administrations. This proposal was subsequently revised to a Joint Exchequer Committee (JEC), the primary focus of which would be to ensure the successful implementation of the financial provisions of the Scotland Bill. It was envisaged that in the longer term, the JEC would consider issues of relevance to a common tax base.

3. Ministers of both Governments have agreed that the formal Terms of Reference for the Committee should be discussed at this first meeting of the JEC.

Discussion

4. A first draft of the Terms of Reference, endorsed by the UK Government is set out at **Annex A**. The version proposed by Scottish Ministers is attached at **Annex B**. Where there are differences, these are highlighted in bold.

5. There are two areas of difference between the two proposals; (i) Annex B extends the scope of the Committee to consider proposals from either Government for additional financial provisions; and (ii) Annex B requires all decisions which are within the scope of JEC to be taken forward with the agreement of both Scottish and UK Governments.

Conclusion

6. The Committee is invited:

- (a) **to discuss the proposed Terms of Reference; and**
- (b) **to agree a way forward**

Joint Secretariat to the Joint Exchequer Committee

JOINT EXCHEQUER COMMITTEE: DRAFT TERMS OF REFERENCE (UK draft)

Role and scope

The Joint Exchequer Committee has been established as an intergovernmental Ministerial forum to discuss and **where possible** reach agreement on financial and fiscal matters with implications for Scotland and the UK arising from the arrangements contained **within the Scotland Bill and its associated package**.

The JEC will also provide joint assurance of the successful implementation of the financial provisions in the Scotland Bill as enacted and associated non-legislative measures (developed from the proposals in the Command Paper, “Strengthening Scotland’s Future”), ensuring that fair, transparent and sustainable systems are put in place in adequate time to operate satisfactorily.

Constitution

The Joint Exchequer Committee will be constituted of Ministers from the Scottish and UK Governments. It will be supported by official groups (JEC Officials) from officials in both Governments.

Arrangements and agenda

The Committee is expected to meet at least biannually and may meet more regularly should it wish to do so.

The role of the chair should alternate between Finance Ministers from the Scottish and UK Governments.

The agenda for meetings will be agreed by Ministers of both Governments. It will focus on implementation of the provisions of the Scotland Bill and the associated package. Ministers from either Government may request any issue of direct relevance to the financial provisions of the Scotland Bill to be placed on the agenda.

Decisions

Where possible, decisions on implementation of the Scotland Bill and its associated package will be reached jointly by Ministers of both Governments. Consequently only decisions that are endorsed by both Governments will be represented as decisions taken by the JEC. Where a joint decision cannot be reached, the final decision would rest with the Government that has formal competence. This would not however, be a decision of the JEC.

Confidentiality and communications

The specifics of each meeting of the JEC, including the meeting papers, will be regarded as confidential by the participants, in order to permit free and candid discussion. However, the holding of JEC meetings and the proposed agenda may be made known publically.

There may be occasions on which the Committee will wish to issue a public statement on the outcome of its discussions. The standard method for communication post-JEC will be a communiqué, agreed by all members of the JEC. Any separate public statements on the discussions of the JEC should respect the confidential nature of the discussions, in order to protect the space to hold free and frank discussions between Governments. Any separate public statements should also be consistent with the content of the agreed joint communiqué.

Public outputs

A short annual report of the Committee's activities may be produced for the UK and Scottish Parliaments with the agreement of Committee members.

Remit

The JEC will consider evidence and options, and where appropriate, seek to make decisions in the following areas::

- The timescale and key milestones for delivery of the package of new financial provisions set out in the Scotland Bill and its associated package;
- The preparedness of the Scottish and UK Governments for implementation;
- The methodology for adjusting the block grant, including embedding of “no-detriment” arrangements;
- The nature and timing of communication and data sharing between the UK and Scottish Governments and their agencies;
- The process for approving any proposed devolved taxes arising under the provision at clause 28 of the Scotland Bill and the content of any such proposals;
- Operationalising the capital and revenue borrowing powers;
- Scottish Government proposals for the design and administration of the fully devolved taxes, as these affect the rest of the UK tax base,
- Future proposals from the UK Government for changes to UK taxation that may have an **corresponding impact** on Scotland;
- The new relationship between the Scottish Government and HMRC and the shared accountability for the tax collection that this implies;
- The relative roles and responsibilities of each interested party in the design, monitoring and implementation of the administrative framework for the Scottish rate of income tax. This work will

include an assessment of the options for delivery of the Scottish rate and associated costs;

- In the longer term, once the fully devolved taxes are in operation and the Scottish Rate of Income Tax is introduced (from 2016), the Committee will have a greater focus on issues relating to a common tax base.

Dispute Resolution

The Protocol on the Resolution and Avoidance of Disputes attached to the Memorandum of Understanding between the UK Government and the devolved administrations sets out the framework for the resolution of intergovernmental disagreements and disputes. It is envisaged that, prior to referring any matter for consideration under the Protocol, every effort will have been made to achieve early and bilateral resolution within the JEC.

Review

The Committee will keep its Terms of Reference under review and take steps to update them as necessary.

UK Government 26 September

Annex B**JOINT EXCHEQUER COMMITTEE: TERMS OF REFERENCE (Scottish Government draft)***Role and scope*

1. The Joint Exchequer Committee has been established as an intergovernmental Ministerial forum to discuss and ~~where possible~~ reach agreement on financial and fiscal matters with implications for Scotland and the UK arising from the arrangements **contained within the Scotland Bill or from proposals made by the Scottish or UK Governments**

2. The JEC will also provide joint assurance of the successful implementation of the financial provisions in the Scotland Bill as enacted and associated non-legislative measures (developed from the proposals in the Command Paper, “Strengthening Scotland’s Future”), ensuring that fair, transparent and sustainable systems are put in place in adequate time to operate satisfactorily.

Constitution

3. The Joint Exchequer Committee will be constituted of Ministers from the Scottish and UK Governments. It will be supported by official groups (JEC Officials) from officials in both Governments.

Arrangements and agenda

4. The Committee is expected to meet at least biannually and may meet more regularly should it wish to do so.

5. The role of the chair should alternate between Finance Ministers from the Scottish and UK Governments.

6. The agenda for meetings will be agreed by Ministers of both Governments.

Decisions

7. Decisions of the Joint Exchequer Committee will be reached jointly by Ministers of both Governments. Consequently only decisions that are endorsed by both Governments will be represented as decisions taken by the JEC. Decisions on issues described in paragraph 1 above as falling within the scope of the JEC may not be taken by any other mechanism than the JEC, nor taken forward without the agreement of both the Scottish and UK Governments.

Assurance

8. Assurance on the progress of implementation of the financial provisions of the Scotland Bill will be provided jointly by a supporting intergovernmental board of officials.

Confidentiality and communications

9. The specifics of each meeting of the JEC, including the meeting papers, will be regarded as confidential by the participants, in order to permit free and candid discussion. However, the holding of JEC meetings and the proposed agenda may be made known publically.

10. There may be occasions on which the Committee will wish to issue a public statement on the outcome of its discussions. The standard method for communication post-JEC will be a communiqué, agreed by all members of the JEC. Any separate public statements on the discussions of the JEC should respect the confidential nature of the

discussions, in order to protect the space to hold free and frank discussions between Governments. Any separate public statements should also be consistent with the content of the agreed joint communiqué.

Public outputs

11. A short annual report of the Committee's activities may be produced for the UK and Scottish Parliaments with the agreement of Committee members.

Remit

12. The JEC will consider evidence and options, and where appropriate, make decisions in the following areas:

- The timescale and key milestones for delivery of the package of new financial provisions set out in the Scotland Bill;
- **Proposals from either the Scottish or UK Governments for additional financial provisions**
- The preparedness of the Scottish and UK Governments for implementation;
- The methodology for adjusting the block grant, including embedding of “no-detriment” arrangements;
- The process for approving any proposed devolved taxes arising under the provision at clause 28 of the Scotland Bill and the content of any such proposals;
- Operationalising the capital and revenue borrowing powers;
- Scottish Government proposals for the design and administration of the fully devolved taxes, as these affect the rest of the UK tax base;
- Future proposals from the UK Government for changes to UK taxation that may have an **corresponding** impact in Scotland

- The new relationship between the Scottish Government and HMRC and the shared accountability for the tax collection that this implies;
- The nature and timing of communication and data sharing between the UK and Scottish Governments and their agencies;
- The relative roles and responsibilities of each interested party in the design, monitoring and implementation of the administrative framework for the Scottish rate of income tax. This work will include an assessment of the options for delivery of the Scottish rate and associated costs;
- In the longer term, once the fully devolved taxes are in operation and the Scottish Rate of Income Tax is introduced (from 2016), the Committee will have a greater focus on issues relating to a common tax base.

Review

13. The Committee will keep its Terms of Reference under review and take steps to update them as necessary.

Scottish Government, 23 September 2011

JOINT EXCHEQUER COMMITTEE
Minutes of meeting of 18 June 2012

Present:

Scottish Government

John Swinney, MSP, Cabinet Secretary for Finance, Employment and Sustainable Growth (Chair)

Bruce Crawford, MSP, Cabinet Secretary for Parliamentary Business and Government Strategy

UK Government

Danny Alexander, MP, Chief Secretary to the Treasury

David Gauke, MP, Exchequer Secretary

Michael Moore, MP, Secretary of State for Scotland

In Attendance:

UK Government

Laura Crawford, Scotland Office

Paul Doyle, HM Treasury

Doug Stoneham, Her Majesty's Revenue and Customs

Kunal Patel, Private Secretary

Ruth Hopkinson, Private Secretary

Scottish Government

Alistair Brown

Gerald Byrne

Gill Glass, Private Secretary

Gabby Pieraccini, Private Secretary

Joint Secretariat

Jacqui Bishop, HM Treasury

Elsbeth Hough, Scottish Government

Dave Ferguson, Scottish Government

1. The second meeting of the Joint Exchequer Committee took place in London, hosted by the UK Government. The Chair, John Swinney MSP welcomed participants to the meeting.

2. Opening the meeting, the Chair noted that significant progress had been made in recent months. This included the exchange of letters between the Secretary of State for Scotland and the Cabinet Secretary for Parliamentary Business and Government Strategy on 20 and 21 March recording agreement on progress with key elements of the Scotland Bill; the enactment of the Scotland Act on 1 May; and progress at official level on joint planning for implementing the Scottish rate of income tax (SRIT) and the proposed devolved taxes.

Key Milestones

3 The Chair introduced a paper prepared by the Secretariat on Key Milestones (JEC/02/12/01/02) which identified the high level milestones for the implementation of the financial provisions of the Scotland Act 2012.

4. The Exchequer Secretary introduced a UK Government paper on the Scottish Rate of Income Tax (SRIT) project (Paper JEC 02/12/01/03) which considered HMRC's approach to implementing the tax and the governance arrangements that will be put in place to support delivery of SRIT.

4. The Committee noted:
the high impact of the SRIT project and the links between it and other changes to the income tax system following significant policy initiatives such as welfare reform;

- the difference between SRIT, which would be used every year and therefore must be embedded within the UK Tax system, and the earlier Scottish Variable Rate for which preparation was made but which was never brought into use;
- the structures proposed for managing the development of SRIT, including establishing a Programme Board with Scottish Government representation that was due to meet for the first time the following day;
- that SG had published a consultation on the replacement for Stamp Duty Land Tax and had set out a timetable for other elements of the programme for legislating for and administering the devolved taxes;
- that good progress had been made on the block grant adjustment, including agreeing that the Holtham methodology would apply in respect of the SRIT ;
- that preparation by HMRC was required in advance of the "switch off" of UK Stamp Duty Land Tax and Landfill Tax in Scotland.

5. The Committee agreed that it should review progress against the recorded milestones at each meeting.

Scottish Rate of Income Tax: Memorandum of Understanding

6. The Chair introduced a paper (JEC/02/12/01/04) prepared by the Secretariat which reported to the Committee on progress with the preparation of a Memorandum of Understanding (MoU) between HMRC and the Scottish Government on setting up and operating SRIT.

7. The Committee noted :

- the importance of achieving value for money in the implementation of the Scottish Rate: this was of importance to both Governments;
- that further work was in hand on the allocation of costs;
- that the accountability of HMRC would be enhanced by the appointment of the additional HMRC accounting officer who would be responsible for the Scottish Rate. The role of this individual in reporting to the Scottish Parliament and its Committees was intended to be directly analogous to the role of HMRC's principal accounting officer in respect of the UK Parliament and its Committees;
- that further work was required to understand the potential savings to HMRC resulting from devolving Stamp Duty Land Tax and Landfill Tax to Scotland in order to confirm whether there would be any offset against the costs of SRIT, as agreed in the exchange of correspondence on 20-21 March.

8. The Committee agreed:

- **that the principles set out in the paper should guide the drafting of the MoU;**
- **that work on drafting the MoU should be driven ahead with a view to Ministers agreeing a text as soon as feasible, and by no later than the next meeting of the JEC.**

New and additional devolved taxes

9. The Chair introduced paper JEC/02/12/01/05 from the Joint Secretariat, proposing a process for establishing new and additional devolved taxes in Scotland.

10. The Committee noted:

- that the proposed process provided useful clarity
- that in the consideration of proposals, there would be a need to consider the evidence base; consensus in Scotland; and avoiding detriment either to Scotland or to the rest of the UK;
- that it was important to ensure that scrutiny of proposals remained proportionate and commensurate with their prospective impact;
- that legislation would be required in both the Scottish and Westminster Parliaments prior to the introduction of a new or additional tax;
- that there was potential for the process to be tested for devolution of the Aggregates Levy which the UK Government had already confirmed would be devolved once the outstanding legal issues had been resolved.

11. The Committee agreed the proposed process.

JEC Communications

12. The Chair introduced paper (JEC/02/12/01/06), produced by the Secretariat which considered the options for communicating the work of the JEC.

13. The Committee noted:

- That commitments had been given to the Scotland Bill Committee of the Scottish Parliament to share information about the proceedings of the JEC;
- That there were two key factors to be considered and balanced: transparency, which was of importance to both governments, and the need to maintain space for free and frank discussion:
- The Scotland Act 2012 required reports on implementation and operation of the financial provisions in the Scotland Act 2012 to be made by both the Secretary of State for Scotland and Scottish Ministers (section 33);
- That the first report must be made within one year of the Scotland Act 2012 receiving Royal Assent, with a report to follow every year thereafter until the tax and borrowing powers are fully transferred to the Scottish Parliament. The last report is therefore expected to be published in 2020;
- The annual reports provided a formal and transparent basis for the respective Parliaments to review progress of the implementation of the financial provisions in the Act.

14. **The Committee agreed:**

- **that, in addition to the annual reports, it would aid transparency to publish minutes of meetings and, where appropriate, communiqués;**
- **the text of the proposed draft communiqué. This would be placed on UK and Scottish Government websites.**

Next meeting

15. The Chair reminded participants that the next meeting of the JEC would be chaired by the Exchequer Secretary in Edinburgh. This was expected to take place before the end of 2012.

Joint Secretariat to the JEC



SCOTLAND OFFICE
DOVER HOUSE
WHITEHALL
LONDON SW1A 2AU

www.scotlandoffice.gov.uk

Kenneth Gibson MSP
Finance Committee Convenor
Scottish Parliament
Edinburgh
EH99 1SP

Our Ref: SO/EW

4th September 2012

Dear Kenneth,

JOINT EXCHEQUER COMMITTEE (JEC)

Thank you for your letter of 13 June requesting the minutes and papers from the JEC meetings. Please accept my apologies for not responding sooner, the UK and Scottish Governments have been finalising the minutes from the last meeting held on 21 June over the summer recess.

I understand that John Swinney MSP, Cabinet Minister for Finance and Sustainable Growth, as chair of the last JEC meeting, has written to you enclosing the minutes from the meetings held in September 2011 and June 2012. The papers from the September 2011 meeting have also been sent to you, on an exceptional basis, following the commitment made to release them during evidence sessions before the Scotland Bill Committee in the Scottish Parliament.

I welcome your scrutiny of the implementation of the Scotland Act 2012 and look forward to working with you.

Yours sincerely,

Michael

**Rt Hon MICHAEL MOORE MP
SECRETARY OF STATE FOR SCOTLAND**