Title:
Impact Assessment of the Scotland Bill
IA No:
Lead department or agency:
Scotland Office
Other departments or agencies:
HM Treasury, HM Revenue and Customs, Department of Work and Pensions, Department of Health

<table>
<thead>
<tr>
<th>Impact Assessment (IA)</th>
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<tbody>
<tr>
<td>Date: 10/11/2015</td>
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<tr>
<td>Stage: Final</td>
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<tr>
<td>Source of intervention: Domestic</td>
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<tr>
<td>Type of measure: Primary legislation</td>
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<tr>
<td>Contact for enquiries: Louise Nicholls 0207 270 6715</td>
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Summary: Intervention and Options
RPC Opinion: Not Applicable

<table>
<thead>
<tr>
<th>Cost of Preferred (or more likely) Option</th>
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<tbody>
<tr>
<td>Total Net Present Value</td>
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What is the problem under consideration? Why is government intervention necessary?
In September 2014 the people of Scotland voted to remain in the United Kingdom. The Smith Commission was established to engage with civic Scotland and agree a wide ranging package of powers to be devolved from the UK Parliament to the Scottish Parliament. All five major political parties in Scotland participated in the Commission and unanimously agreed the final Agreement. The Scotland Bill, when enacted, will deliver the Agreement. It is a piece of constitutional legislation which does not in itself trigger immediate impact; it will be for the Scottish Parliament to determine how the devolved powers are used and to assess the impact of their policy choices. This impact assessment considers the taxation and welfare provisions.

What are the policy objectives and the intended effects?
The policy objective of the Bill is to deliver the Smith Commission Agreement; to increase the Scottish Parliament’s ability to make autonomous choices that benefit the people of Scotland; and to be accountable for those decisions. The Bill will devolve a wide range of powers to the Scottish Parliament and Scottish Government, including responsibility for raising an increased proportion of the money that they spend. This Impact Assessment sets out the current provision of taxation and welfare provisions that will be devolved to the Scottish Parliament; it will be for the Scottish Parliament to determine how powers are used and the impact of their policy choices.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
The Smith Commission Agreement was based on recommendations, evidence and analysis assessed by the Commission. The final report was unanimously agreed by all five of Scotland’s main political parties. The measures in the Agreement build on the existing devolution settlement and changes made in the Scotland Act 2012 to further strengthen the powers and responsibility of the Scottish Parliament. The provisions contained in the Bill were initially published by the UK Government as draft clauses in January 2015.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year

<table>
<thead>
<tr>
<th>Does implementation go beyond minimum EU requirements?</th>
<th>N/A</th>
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<tbody>
<tr>
<td>Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.</td>
<td>Micro No</td>
</tr>
<tr>
<td>Small No</td>
<td>Medium No</td>
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<tr>
<td>What is the CO₂ equivalent change in greenhouse gas emissions? (Million tonnes CO₂ equivalent)</td>
<td>Traded:</td>
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</table>

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: [Signature]
Date: 5th November 2015
Summary: Analysis & Evidence

Policy Option 1

FULL ECONOMIC ASSESSMENT

<table>
<thead>
<tr>
<th>Price Base Year</th>
<th>PV Base Year</th>
<th>Time Period Years</th>
<th>Net Benefit (Present Value (PV)) (£m)</th>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Best Estimate</td>
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**COSTS (£m)**

<table>
<thead>
<tr>
<th></th>
<th>Total Transition (Constant Price) Years</th>
<th>Average Annual (excl. Transition) (Constant Price)</th>
<th>Total Cost (Present Value)</th>
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<td>Optional</td>
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<tr>
<td>Best Estimate</td>
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Description and scale of key monetised costs by 'main affected groups'
This is enabling legislation: accurate estimates of costs are not available until implementation policies are determined by the Scottish Parliament: Costs of administering devolved taxes and welfare provision depend on future choice by Scottish Parliament.

Other key non-monetised costs by 'main affected groups'
Employers/Business: Marginal compliance costs will depend upon design of devolved taxes.

**BENEFITS (£m)**

<table>
<thead>
<tr>
<th></th>
<th>Total Transition (Constant Price) Years</th>
<th>Average Annual (excl. Transition) (Constant Price)</th>
<th>Total Benefit (Present Value)</th>
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<tbody>
<tr>
<td>Low</td>
<td>Optional</td>
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<tr>
<td>Best Estimate</td>
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</table>

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'
Scottish Electorate: Improved democratic choice from having different tax and spending options; Scottish Parliament: Increased financial accountability incentivises efficient governance; UK & Scottish Parliaments: Increased efficiency through greater "yardstick competition" in public service delivery.

Key assumptions/sensitivities/risks
N/A.

Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

<table>
<thead>
<tr>
<th>Direct impact on business (Equivalent Annual) £m:</th>
<th>In scope of OIIO?</th>
<th>Measure qualifies as</th>
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<tbody>
<tr>
<td>Costs:</td>
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<td>NA</td>
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<tr>
<td>Benefits:</td>
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<tr>
<td>Net:</td>
<td></td>
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Evidence Base (for summary sheets)

THE SCOTLAND BILL

The Scotland Bill is made up of 70 clauses, of which 7 set out financial provisions and 13 set out welfare provisions. These provisions are dealt with in this Impact Assessment. The Bill is a constitutional piece of legislation: the provisions enable the devolution of powers to the Scottish Parliament and Scottish Government. It will be for the Scottish Parliament and Government to determine how those powers are used and as a result the impact their policy choices have for businesses, individuals and other costs. Legislation will be required in the Scottish Parliament to deliver changes following the devolution of powers, it will be for the Scottish Government and Parliament to set out the impact assessment of their changes.

This impact assessment covers the taxation and welfare, measures only. As noted above the taxation and welfare measures provided for in the draft Bill would be implemented by the Scottish Government and Scottish Parliament so it is impossible to fully quantify any costs associated with such taxes in this Impact Assessment. Instead this impact assessment sets out a description of measures.

The Smith Agreement also stated that a new fiscal framework be negotiated for Scotland to accompany the further powers included in this Bill, in order to set and coordinate sustainable fiscal policy for the UK as a whole. It is intended that that framework will be agreed outside of legislation but be negotiated in parallel to the passage of this Bill.

1. TAXATION MEASURES WITHIN THE BILL

INCOME TAX

Description of measures

The Scotland 2012 Act devolved power for the Scottish Parliament to set a rate of income tax to be paid by the Scottish taxpayers on their non-savings and non-dividend income. From 2016/17 the rate payable by Scottish taxpayers on such income will be calculated by reducing the basic, higher and additional rates of income tax by 10 pence in the pound and adding a new Scottish rate of income tax (SRIT) set by the Scottish Parliament. This Scottish rate must be the same rate for all bands (the so-called 'lockstep').

This Bill replaces the income tax powers contained within the 2012 Act with strengthened powers for the Scottish Parliament to introduce new rates and bands of income tax above the UK personal allowance. This will apply to income tax paid on non-savings and non-dividend income. In practice, this includes income from employment, profits from self-employment, pensions, taxable and social security benefits and income from property. This will apply to all Scottish taxpayers as defined in the 2012 Act – meaning an individual is a Scottish taxpayer if, during a tax year, they are a UK resident for tax purposes.

Costs associated with the devolution of further income tax powers in Scotland

There are two forms of cost associated with changes to the tax system – those direct costs derived from any increased tax liabilities and those arising because the new tax creates new administrative requirements.

Direct costs

The direct costs are wholly unquantifiable in this Impact Assessment because the rates of tax will be determined in the future by the Scottish Parliament. It is therefore inappropriate to speculate as to whether the Scottish Parliament will wish to apply rates and thresholds of taxation that are higher, lower, or the same as those applying to the rest of the United Kingdom.

Administrative costs

The administrative costs to business of the income tax powers contained within this Bill are considerably mitigated by the extent to which these powers build on those already devolved by the 1998 and 2012 Scotland Acts.
The primary area of potential burden for business is the identification and separate treatment of Scottish taxpayers. However, when the Scotland Act 1998 created the Scottish variable rate (SVR) of income tax, employers and software providers made changes to payroll software so that they could operate a different rate of income tax for those employees who were defined as Scottish taxpayers. Similarly, following the creation of the Scottish rate of income tax (SRIT) by the Scotland Act 2012.

HMRC have worked with businesses to ensure necessary amendments to payroll software and processes will be in place to facilitate the commencement of SRIT for the 2016/17 tax year. This means that most existing payroll software will already have the capacity to accommodate the powers over rates and thresholds devolved by the Bill, ensuring that the addition administrative burdens on business are considerably lower than might otherwise have been the case.

Other areas that may incur additional business administrative costs to relate to the treatment of certain tax reliefs and income, for example, gift aid and the tax reliefs available for contributions to pension schemes. The Government’s position with regard to these issues and SRIT has been to adopt legislative and process solutions that minimise, as far as possible, additional burden on business. The extent to which these solutions may be appropriate to facilitate the additional income tax powers devolved by this Bill depend, to an extent, on the manner in which the powers are used by the Scottish Parliament.

In summary, it is therefore neither possible nor appropriate to make exact estimates around any compliance and administrative costs on business arising from the devolution of further income tax powers contained within this Bill. These costs can only be determined once the approach to implementation has been finalised and brought forward by secondary UK legislation. The UK Government will consult with business stakeholders to inform the approach on these matters, looking at fairness, administrative complexity and competitiveness. These discussions will include the Scottish Government, HMRC and the Scotland Office.

**Administrative costs to Government from new Scottish income tax powers.**

The administrative costs arising from the changes to the income tax system determined in this Bill will, in principle, fall to the devolved administration. This is consistent with the established principle that the costs of devolution are born from the Scottish Budget, as set out in existing administrative arrangements and the Scotland Act 2012 which enables the Scottish Ministers to reimburse the UK Government for these costs. As the new Scottish income tax powers will be administered by HMRC, such payments would be from the Scottish Government to HMRC.

It is not possible at this stage to provide more detail of the start-up and on-going annual recurring costs associated with adapting HMRC systems to administer the new Scottish income tax powers, other than to say many of the necessary changes will have been made to accommodate SRIT. As set out above, there are still some issues where decisions may be required and practical detail worked out, depending on how the new powers are used. This includes how Scottish rates of income tax and thresholds interact with different reliefs, such as Gift aid & Pension contributions and other types of income.

**AIR PASSENGER DUTY AND AGGREGATES LEVY**

**Description of measures**

The Bill provides for the devolution of Air Passenger Duty and Aggregates Levy to the Scottish Parliament, although the devolution of Aggregates Levy is dependent on the resolution of current on-going legal issues in relation to the regime.

These two taxes will cease to apply in Scotland and the Scottish Parliament will be able to levy its own taxes in respect of air passengers leaving Scottish airports and the commercial exploitation of aggregate in Scotland. The Scottish Parliament may choose the means of collecting and administering these new taxes.

**Direct costs**

The direct costs are wholly unquantifiable in this impact assessment because the rates of tax will be determined in the future by the Scottish Parliament.

**Administrative cost to business**
Neither the administrative burdens nor compliance costs for business associated with the devolution of Air Passenger Duty and Aggregates Levy can be estimated within this Impact Assessment, as, by its very nature, the future of these taxes in Scotland will be entirely a matter for the Scottish Parliament.

**Administrative cost to Government**

The administrative costs to Government associated with the devolution of these taxes will fall to the devolved administration who may appoint whatever body they choose, including HMRC, for their administration and collection. The implementation costs will be heavily dependent on the structure of each of the devolved taxes.

The cost of administering Air Passenger Duty across the UK costs is 0.03p per pound of revenue, with a yield of £2.8 billion in 2013. The administration cost of Environmental Taxes as whole UK-wide is estimated to be about 0.19p per pound of revenue, with revenue from Aggregates Levy totalling approximately £0.3 billion in 2013. Neither the administrative nor compliance costs, associated with devolving Air Passenger Duty and Aggregates Levy, can be estimated as, by their very nature, the future of these devolves taxes will be entirely a matter for the Scottish Parliament.

**ASSIGNMENT OF VAT**

**Description of measures**

This Bill assigns to the Scottish Government’s budget the first 10 percentage points of the revenue attributable to Scotland from the standard rate of VAT and the first 2.5 percentage points of the revenue attributable to Scotland from the 5 per cent reduced rate. This Bill also provides for HMRC to disclose information as part of the process of deciding what may be proposed as the basis for the calculation in any agreement with the Scottish Government. VAT rates will continue to be set at a UK-wide level as recommended in the Agreement.

**Administrative costs to business of assignment of VAT revenue**

There are no additional administrative burdens or costs for businesses as a result of the assignment of VAT revenues to the Scottish Government.

**Administrative costs to Government of assignment of VAT revenue**

VAT revenue collection will remain the responsibility of UK Government to collect centrally – the administrative costs of doing so should not change. The apportionment of VAT revenues will however require the creation of new administrative structures to facilitate and manage the process of revenue collection.

**2. WELFARE**

**Description of measures**

The Bill transfers legislative and executive competence for a variety of benefit areas from the UK Parliament and Government to the Scottish Parliament and Government. This impact assessment looks at the impacts that arise directly from the policy of transferring this responsibility; it does not seek to assess the potential impact of any future policy changes that may be considered by the Scottish Government. It will be for the Scottish Government to provide such analysis and evidence as it considers necessary as part of its policy development process.

Part 3 of the Bill contains provision to devolve legislative competence to the Scottish Parliament to allow them to make provision for certain types of social security benefit, discretionary payments, and employment support. It also contains provision to transfer executive competence to Scottish Ministers to allow them to vary certain aspects of Universal Credit (although Universal Credit remains a reserved benefit administered and delivered by the Department for Work and Pensions).

The Scottish Parliament will be able to set the rules about a wide range of benefits which affect carers and disabled people. The Scottish Parliament will have legislative competence for provisions currently covered by Attendance Allowance, Carer’s Allowance, Disability Living Allowance, Personal Independence Payment, Industrial Injuries Benefits and Severe Disablement Allowance.

The Bill also provides the Scottish Parliament with legislative competence over the subject matter of the regulated social fund. The fund is defined as providing financial assistance for the purposes of meeting
maternity expenses (Sure Start Maternity Grants); funeral expenses (Funeral Payments); and expenses for heating incurred due to cold weather (Winter Fuel Payments and Cold Weather Payments).

The Scottish Parliament will be able to replace those benefits and payments listed above for which powers are being devolved with any of its own design as long as they specifically relate to areas of welfare responsibility that are devolved.

The Scottish Parliament will also have the power to make legislation in relation to Discretionary Housing Payments (DHP), subject to certain restrictions similar to those that already exist in respect of DHPs.

The Scottish Parliament will also have the power to legislate for both discretionary payments to people in any area of welfare to meet a short term need to avoid risk to the well-being of an individual.

In addition the Scottish Parliament will have the power to legislate to make discretionary top-up payments to people in Scotland who are entitled to a reserved benefit. These top-up payments could be paid on an individual case by case basis or to provide on-going entitlement to specific or all benefit claimants. Top-ups could not be used solely to offset a reduction in a reserved benefit (for example as a result of a sanction because of non-compliance with a work-related requirement).

It should be noted that the UK Government does not have similar powers in relation to discretionary payments.

The Scottish Parliament will also have the power to create new benefits in areas of devolved responsibility without the need to engage with UK Government. This power will only apply to Social Security and not to any other reservation in the 1998 Act. This power to create new benefits will not extend to pensions as the Smith Commission Agreement specifically states that all aspects of the state pension would remain reserved. Any new benefits created under this clause will be paid for by Scottish Ministers / Scottish Parliament out of the Scottish Consolidated Fund. As with other powers in the Scotland Bill, it will be for the Scottish Government to consider how they will be administered as new benefits created under the power would operate outside of the UK welfare system. The Scottish Parliament will not be able to use this power to amend any UK Government welfare legislation.

The Scottish Government will also be able to vary the frequency of Universal Credit payments, decide whether housing costs payments can be made direct to a landlord and whether payments can be split between couples. Scottish Ministers will also have the power to vary the amounts used to calculate housing costs for renters within Universal Credit.

Finally the Bill provides the Scottish Parliament with legislative competence to create employment schemes to assist those at risk of becoming long-term unemployed, and to help disabled people into work. For the former group the assistance provided must be for at least a year.

This impact assessment

- Sets out the total expenditure and caseload that has historically occurred in Scotland in respect of those benefits where power is being devolved to the Scottish Parliament
- Discusses the costs and benefits that might arise as a result of the potential for different policies in these areas in Scotland from those in the rest of Great Britain.

**Costs and benefits associated with the devolution of powers relating to welfare**

Costs and benefits may arise directly from the devolution of powers in the Bill regardless of how they are exercised by the Scottish Government and Scottish Parliament. These are referred to as the direct costs and benefits of devolution.

There are two forms of cost and benefit associated with changes to policy in relation to the benefits for which power is being devolved: those direct policy costs and benefits derived from any changes in benefit entitlement and taxpayer liability; and those arising indirectly because the new system changes administrative requirements.

**Direct Policy Costs and Benefits**

The direct costs of a change in policy are wholly unquantifiable in this impact assessment because the policy will be determined in the future by the Scottish Government and Scottish Parliament. It is important to note however that actions by one government can have impacts on the costs and revenues of the other government, for instance in relation to the ‘passporting’ of benefits.
Linked entitlement to other benefits

A number of the benefits for which powers are being devolved provide automatic entitlement to other benefits or services. This covers benefits administered by DWP as well as other government departments or external providers.

One government may change the eligibility criteria for a benefit that is used as a linked entitlement by the other government, or others, which could impact on the numbers eligible for the linked benefit - creating either an increase or a decrease. In this case any increased spend on the linked benefit would need to be met by the government making the change (or they would receive any savings).

Costs of changed administrative requirements

The administrative costs arising from potential changes to welfare provision will, in principle, fall to the Scottish Parliament. There are two broad options for each benefit, either the Scottish Government and the UK Government reach a partnership agreement under which DWP would administer these benefits and services on behalf of the Scottish Government, with the Scottish Government funding the administration and programme costs of such benefits and services, or the Scottish Government develops new administrative for the devolved benefits and services. In either case, the two Governments will need to work closely together to ensure devolved and reserved benefits and services interact appropriately, and to ensure that caseloads are transferred smoothly from current arrangements to new benefits and services or delivery arrangements. It is no possible to quantify the costs.

Expenditure on and caseload for those benefits where powers are being devolved to the Scottish Parliament

In 2013/14 (the most recent year for which data is available) the total expenditure in Scotland on the benefits for which powers are being devolved was £2,357 million, this was 10.1% of the total expenditure in Great Britain on the equivalent benefits in that year1. Figure 1 and Figure 2 shows how total expenditure in this area has evolved over time, in order to ensure comparable over time removing the effects of inflation on the value of the expenditure. Subsequent figures for the most recent expenditure are quoted in nominal terms.
The benefit system is devolved to Northern Ireland already so comparisons in this impact assessment will generally be to expenditure in the whole of Great Britain.

Figure 2 - Expenditure in Scotland on discretionary housing payments and social fund (2013-14 prices)
Demographic and other trends have led to a decline in the Scottish proportion of the total GB expenditure on the benefits for which powers are being devolved, as illustrated in Figure 3.

**Figure 3 - Expenditure in Scotland as a percentage of GB expenditure**
The total number of people in Scotland receiving the benefits for which powers are being devolved is illustrated in Figure 4. It is not possible to provide an overall total of the number of people in receipt of benefits by summing these figures as individuals may receive more than one benefit.

**Figure 4 - Scottish caseload**

![Chart showing the number of people receiving different benefits from 2004/05 to 2013/14](chart.png)

**Attendance Allowance**

Attendance Allowance is a non-contributory, non-income-related, tax-free individual benefit that provides financial support to people with disabilities who have long-term day and/or night personal care, or supervision, needs, where these needs arose at or after the age of 65, or where a claim to Disability Living Allowance or Personal Independence Payment was not made before the age of 65. (The current qualifying age for Attendance Allowance and the upper age cut off point for Disability Living Allowance and Personal Independence Payment is 65 years although this is due to increase in line with the increase in the State Pension age for men and women beyond 2018).

There are two rates of Attendance Allowance available - a lower rate of £55.10 and a higher rate of £82.30 (2015/16 rates).

The total expenditure on Attendance Allowance in Scotland in 2013/14 was £481m and was paid to a total caseload of 132,000 individuals. These represent 9.0% of GB expenditure and 8.9% of GB caseload on this benefit.

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2 *Cold Weather Payments are not included in this chart as the number of payments is not the same as the number of claimants since payments are made whenever the cold weather criteria are triggered.*

3 *The descriptions of the benefits set out in this Impact Assessment relate to the existing benefits.*
Carer’s Allowance

Carer’s Allowance is a non-contributory benefit available to people who have given up the opportunity of full-time paid employment in order to provide substantial care, of at least 35 hours a week, to a severely disabled person. Carer’s Allowance is £62.10 a week (2015/16).

In order to qualify for Carer’s Allowance the carer:

- must be caring for a severely disabled person for at least 35 hours a week
- can earn up to £110 a week
- must not be in full-time education - this means 21 hours or more a week of supervised study at a school, college, university or similar educational establishment. The 21 hours of supervised study includes time spent on receiving instruction or tuition, examinations or practical work or taking part in any exercise, experiment or project which forms part of the course.

Additionally, the person being cared for must be receiving any of the following:

- the highest or middle rate of the Disability Living Allowance care component;
- Attendance Allowance;
- Constant Attendance Allowance at the appropriate rate;
- the daily living component of Personal Independence Payment;
- Armed Forces Independence Payment.

The total expenditure on Carer’s Allowance in Scotland in 2013/14 was £182m and was paid to a total caseload of 57,000 carers. These represent 8.7% of the GB expenditure and GB caseload on this benefit.

4Since entitlement to Carer’s Allowance depends on the disability of someone other than the claimant it is possible for a person living in Scotland to receive a payment owing to the disability of a person elsewhere in the GB (and vice versa) Evidence suggests that the numbers affected by this issue would be very small. The latest information available indicates that there are around 250 carer’s Allowance recipients in Scotland caring for a disabled person living in England and approximately the same number of carers in England travelling to Scotland to care.

Disability Living Allowance and Personal Independence Payment

The disability benefits for children and disabled adults claiming before age 65, Disability Living Allowance (DLA) and Personal Independence Payment (PIP), are non-contributory, non-income-related, tax-free individual benefits to provide financial support to people with disabilities who have long-term daily living, care or mobility needs and as a result are likely to incur extra costs. They are available to people who claim before age 65 but can continue to be paid beyond that age so long as the entitlement conditions continue to be met. (The current upper age cut off point to claim DLA and PIP is 65 years although this is due to increase in line with the increase in the State Pension age for men and women beyond 2018).

DLA and PIP both have two components: a care component for DLA (paid at one of three rates) and a daily living component for PIP (paid at one of two rates); and a mobility component applicable to both (paid at one of two rates). The minimum payable for both benefits is £21.80 a week and the maximum is £139.75 (2015/16 rates).

PIP was introduced in April 2013 for new claims from adults aged 16 to 64 in parts of the north of England and across the remainder of GB from June 2013. DLA, which was introduced in 1992, remains for children under the age of 16 and for existing claimants who were aged 65 or over on 8 April 2013 and who continue to satisfy the entitlement conditions.

PIP is being introduced in stages for existing DLA claimants who were aged 16 to 64 on 8 April 2013, or who reach age 16 after that date. From October 2013 a phased approach began for inviting existing claimants of DLA to claim PIP if:

- the Department receives information about a change in care or mobility needs;
- their fixed term award is due to expire;
- children turn 16 years old (unless they have been awarded DLA under the Special Rules for terminally ill people);
- an individual chooses to claim PIP instead of their DLA.

DLA recipients who were aged 65 or over on 8 April 2013 will continue to receive DLA, and not be reassessed for PIP, so long as they continue to satisfy the entitlement conditions.

The total expenditure on Disability Living Allowance in Scotland in 2013/14 was £1,473m and the benefit was paid to a total caseload of 347,000 individuals. These represent 10.7% of GB expenditure and 10.6% of GB caseload on this benefit. Approximately one third of Disability Living Allowance payments in Scotland are made to people aged 65 or over.

The total expenditure on PIP in Scotland was £9.5m, approximately 12.5% of GB expenditure and 13.2% of GB caseload. Recent caseload figures show that at the end of January 2015 just under 35,000 were receiving PIP representing 10.8% of the GB caseload.

**Industrial Injuries Benefits**

In this document Industrial Injuries Benefits refers to the Industrial Injuries Disablement Pension, Reduced Earnings Allowance, Retirement Allowance and Industrial Death Benefit. (There are additional benefits which are not covered here; they are Exceptionally Severe Disablement Allowance; Unemployability Supplement; Industrial Injuries Disablement Gratuity or Hospital Treatment Allowance.) Industrial Injuries Disablement Pension is the main benefit in the Industrial Injuries Scheme. It is tax free, non-contributory, no fault compensation to employed earners for injury arising from an industrial accident, or from specified occupationally caused diseases. It is not income-related, however it is taken into account as income in other income-related benefits the claimant may receive. Award amounts vary and can be dependent upon individual circumstances.

The total expenditure on Industrial Injuries Benefit in Scotland in 2013/14 was £91m and was paid to a total caseload of 32,000 benefit units. These represent 10.2% of the GB expenditure and 10.4% of the GB caseload on this benefit.
Severe Disablement Allowance

Severe Disablement Allowance is the non-contributory equivalent of Incapacity Benefit. It is non-taxable, non-contributory and non-income-related. Severe Disablement Allowance has been closed to new claims since 2001. The basic weekly rate is £74.65 (2015/16 rate), with additional amounts for dependants and based on the age at which incapacity started. In October 2008, Employment and Support Allowance (ESA) replaced Incapacity Benefit, Severe Disablement Allowance and Income Support paid on grounds of incapacity for new claims only.

The Government is currently running a programme to reassess existing Severe Disablement Allowance claimants below state pension age for eligibility for ESA. When a person reaches state pension age they can claim State Pension, which may end entitlement to Severe Disablement Allowance.

The total expenditure on Severe Disablement Allowance in Scotland in 2013/14 was £91m and was paid to a total caseload of 21,000 individuals. These represent 10.6% of the GB expenditure and caseload on these benefits.

Sure Start Maternity Grant

Sure Start Maternity Grant is a payment of £500 to provide help for families with the costs of a new baby (or babies in the event of a multiple birth) if there are no other child(ren) under 16 in the claimant’s family. The grant is available to recipients, and partners of recipients, of a qualifying benefit or tax credit. These are: Universal Credit, Income Support, income-related Employment and Support Allowance, income-based Jobseeker’s Allowance, Pension Credit, Child Tax Credit (at a rate higher than the family element), or Working Tax Credit (which includes a disability or a severe disability element).

In 2013/14 a total of 6,375 Sure Start Maternity Grant payments were made in Scotland, this represents 8.7% of the total payments made in the United Kingdom.

Funeral Payments

The Funeral Payment scheme provides help with a contribution towards the cost of a funeral. Awards cover the full necessary costs involved with either burial or cremation and up to £700 for all other funeral expenses. Award amounts are dependent upon individual circumstances. Funeral Payments are available to recipients, and partners of recipients who are in receipt of Universal Credit, Income Support, income-related Employment and Support Allowance, income-based Jobseeker’s Allowance, Pension Credit, Child Tax Credit (at a rate higher than the family element), Working Tax Credit (which includes a disability or a severe disability element), or Housing Benefit.

In 2013/14 a total of 4,386 Funeral Payments were made in Scotland, representing 13.2% of such payments made in Great Britain in that year.

Winter Fuel Payments

Winter Fuel Payments are paid annually to those at or over the qualifying age (women’s State Pension age – 62 years and 2 months for winter 2014/15) in the qualifying week (the third full week of September). They are non-income-related, non-contributory and tax free and they do not affect other benefits. A Winter Fuel Payment is an individual benefit but the amount paid depends on the composition of the household. The rates for winter 2014/15 were:

- £200 for someone who has reached women’s State Pension age but is under 80; and
- £300 for someone aged 80 and over.
- A shared rate is paid where people share a household with others who are also eligible.

The total expenditure on Winter Fuel Payments in Scotland in 2013/14 (the last year for when figures are available – the rate was the same as for winter 2014/15) was £186m and was paid to a total caseload of 1,086,080 households. These represent 8.7% of the GB expenditure and 8.6% of the GB caseload on this benefit.
Prior to 2011/12 the scheme was paid on the birth of any baby

Cold Weather Payments

Cold Weather Payments provide help with additional costs of heating during periods of severe weather. A payment of £25 is made to someone for each 7 day period when the average temperature has been recorded as, or is forecast to be, 0°C or below over seven consecutive days at the weather station linked to their postcode. In order to receive a Cold Weather Payment a person must be in receipt of certain income-related benefits and satisfy certain other eligibility conditions.

In 2013/14 a total of 1,100 cold weather payments were made in Scotland, and no such payments were made elsewhere in the United Kingdom. As payments are determined by weather conditions the total number of payments (and hence expenditure) can vary significantly from year to year, as can the proportion of the total national payment which is made in Scotland. The current system in effect provides risk sharing between the different parts of the UK. As a consequence of responsibility for making provision for Cold Weather Payments being devolved this risk sharing will be unwound.

Discretionary Housing Payments

Discretionary Housing Payments (DHPs) can be used by Local Authorities to make additional payments to people who are in receipt of Housing Benefit or the housing support element of Universal Credit for help with housing costs, including shortfalls in rent, which are not already covered by Housing Benefit. Central government provides Local Authorities with an annual allocation, and they are free to supplement this from their own funds up to two and a half times the Government contribution (the 'cap'). Although the Government has issued guidance on DHP Good Practice, Local Authorities have complete discretion as to whether to award a DHP.

In Scotland, the DHP cap has already been devolved to the Scottish Government. This allows the Scottish Government to provide additional resources to its Local Authorities to provide claimants with support for their housing costs as they deem appropriate. Since 2013/14, the Scottish Government has provided additional funding for DHPs in Scotland (on top of the UK Government contribution), which has pushed up Scotland’s DHP spending as a percentage of the GB total.

In 2013/14 Discretionary Housing Payments of £28.7m were made in Scotland, representing 16.27% of the total such expenditure in Great Britain, 9% of which was allocated by DWP. There was a substantial increase in overall GB annual DHP funding from 11/12 to 13/14 (a total of £20m in 11/12, £60m in 12/13 and £180m in 13/14), which reflected additional support provided on introduction of reforms to Housing Benefit and the household benefit cap, currently administered through Housing Benefit. Scotland’s share of this additional funding reflected the relative impacts of the LHA changes and lower impacts of household benefit cap as the main reform impacts were felt in London, hence the significant dip in Scottish DHP expenditure as a percentage of the total in 13/14.

As the payments are made to individuals by Local Authorities which have discretion over the way in which payments are made caseload information is not available.

Welfare Foods

The Welfare Foods powers enable the setting up of schemes for providing nutritional support to specified groups. Currently the Welfare Foods powers are implemented across Great Britain via the Nursery Milk and Healthy Start schemes. These schemes are currently both operated, and regulated for, by the UK Department of Health.

The Nursery Milk Scheme provides 1/3 pint (189ml) of milk per day to children under the age of five attending childminders or private and local authority nurseries for at least two hours a day. Babies under the age of one receive their milk as infant formula. In 2014/15 £3.8m was spent providing nursery milk to Scottish settings. The Scottish Government already pay for milk provided through the Nursery Milk Scheme in Scotland. The administrative arrangements for the Nursery Milk scheme are paid for by the UK Department of Health under a, GB wide, contract with a single contractor and so are not reducible by GB country or regions.
The Healthy Start scheme aims to improve the nutritional health of pregnant women and children under the age of four in low income families by providing vouchers that can be exchanged for plain, fresh or frozen fruit or vegetables, milk and milk formula. Because a health professional (a midwife, health visitor or GP) is required to sign the application form the scheme incentivises contact with these professionals, enabling them to provide support and advice on diet and other key aspects of maternal and child health, such as breastfeeding. The vouchers can be spent in major high street retailers and independent shops on qualifying items. In 2014/15 around £5.95m was issued in vouchers to Scottish addresses. The Scottish Government already reimburses the UK Department of Health for the value of vouchers paid to Scottish addresses. The administrative arrangements for Healthy Start are paid for by the UK Department of Health under, GB wide, contracts with two contractors who issue and manage reimbursement of the vouchers for retailers. These contracts cover the whole of the UK and so are not easily reducible by country or regions.

3. Equalities

Summary of impacts

The Equality Act 2010 sets out a duty for public authorities to consider how their policies or decisions affect people who are protected under the Act – the Public Sector Equality Duty (PSED). This bill contains constitutional legislation.

The act of devolution itself – once legislation is complete – will not cause any equality change as the UK Government is transferring powers and functions to the Scottish Government intact.

In relation to this, the UK Government has also taken account of the following:

- At the point of devolution, the Scottish Government will be subject to the PSED in relation to these powers.
- The Scottish Government has consistently shown due regard or equality in its activity
- The overall reservation on the Equality Act 2010 means that Scottish Parliament will not be able to lower the protections found in the Equality Act.

Once legislative and executive competence for these areas has been devolved it will be for the Scottish Government to undertake any equality analysis of policy decisions it takes and any impacts these will have.

Equality Analysis – taxation

Income tax - Gender impact

The existence of different rates of income tax in Scotland compared to the rest of the UK would be associated with potential distributional and gender effects. A larger proportion of Scottish tax payers are basic rate tax payers than in the UK as a whole. Additionally, a higher proportion of women are lower rate tax payers than men, introducing a potential gender effect to variations in the rate of income tax by the Scottish Parliament. 94% of Scottish female tax payers are on incomes of £30,000 or less compared to 87.5% of male tax payers across the UK. Hence, a higher effective rate of taxation in Scotland would result in more female taxpayers paying a higher proportion of their income in tax than males and vice versa for lower effective rates.

However, as noted above, these effects are entirely determined by the rate of tax applied chosen by the Scottish Parliament and could have positive or negative effects, depending on the chosen rate. Hence they cannot be assessed or quantified in this Impact Assessment.

European Convention on Human Rights

It is settled law that Convention rights apply in the context of taxation. The most important Convention right in terms of taxation is Article 1 Protocol 1 (UA1P1"): the right to peaceful enjoyment of possessions. Taxation is, in principle, an interference with the right guaranteed by the first paragraph of A 1P1, since it deprives the person concerned of a possession, namely the amount of money which must be paid. However, this basic right is not absolute. The second paragraph of A1 P1 expressly provides that the
State may enforce such laws as it deems necessary to secure the payment of taxes or other contributions. The European Court of Human Rights has repeatedly indicated that Contracting states enjoy a very wide margin of appreciation in implementing policies in the area of taxation.

It is considered that wide margin of appreciation clearly includes whether or not to devolve to a regional government the discretion to establish its own rates of tax. Indeed, there is nothing particularly novel in contracting States having variable tax rates and mechanisms set by infra-State authorities - it is a well-established feature of the fiscal systems of a number of countries.

In addition, taxation regimes can sometimes interfere with Article 6 rights (where penalties are imposed for non-compliance) or Article 8 rights (as a result of the tax authority’s powers to require disclosure of information). These are not engaged in the Scotland Bill. In relation to income tax existing powers will be utilised. Those powers are considered to be compatible with articles 6 and 8. In relation to the other devolved taxes penalties and information requirements will be a matter for the Scottish Parliament.

Finally, the possible impact of Article 14 (UA14") has been considered. This Article prohibits discrimination in the enjoyment of Convention rights. Devolving landfill tax and stamp duty land tax to Scotland, and creating a new Scottish rate of income tax, will create a difference in treatment between Scottish taxpayers and other UK taxpayers with respect to their property rights under A1P1. A14 is therefore prima facie engaged. However, as noted above, national authorities have a wide margin of appreciation with respect to taxation. It is considered that it is well within the state's margin of appreciation to devolve power to the Scottish Parliament, including authority over tax.

**Equality analysis - Welfare**

The characteristics of benefit claimants in Scotland may differ from those elsewhere in Great Britain. This section sets out some summary statistics to illustrate these differences for the most recent year for which data is available. Where there are significant differences between the diversity characteristics of people covered by the benefits for which powers are being devolved a difference in policy between Scotland and the rest of the UK could result in different experiences associated with a protected characteristic. Responsibility for determining the impact of such impacts will be the responsibility of the Scottish Government and decisions of the Scottish Parliament and could have positive or negative effects, depending on the policy choices made. As a result they cannot be assessed or quantified in this Impact Assessment. The table below shows the percentage of claimants who are female for the benefits being devolved to the Scottish Parliament.
Gender
For each of the benefits being devolved the percentage who are female is shown in Table 1.

Table 1 - Percentage of claimants who are female (2013/14)

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Scotland</th>
<th>GB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attendance Allowance</td>
<td>66.0%</td>
<td>66.3%</td>
</tr>
<tr>
<td>Carer's Allowance (in payment)</td>
<td>68.8%</td>
<td>72.3%</td>
</tr>
<tr>
<td>Disability Living Allowance</td>
<td>51.4%</td>
<td>49.8%</td>
</tr>
<tr>
<td>Industrial Injuries Benefits</td>
<td>15.6%</td>
<td>20.1%</td>
</tr>
<tr>
<td>Personal Independence Payment</td>
<td>54.2%</td>
<td>52.6%</td>
</tr>
<tr>
<td>Severe Disablement Allowance</td>
<td>55.3%</td>
<td>55.1%</td>
</tr>
<tr>
<td>Sure Start Maternity Grant</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Winter Fuel Payment</td>
<td>54.9%</td>
<td>53.8%</td>
</tr>
</tbody>
</table>