The Scottish Parliament
Pàrlamaid na h-Alba

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Dear Steve,

Restricted Roads (20 mph Speed Limit) (Scotland) Bill – Financial Memorandum

Since the publication of the Financial Memorandum for the above Bill, currently subject to Stage 1 scrutiny by your committee, some additional information has come to my attention.

Destination of fine income

Paragraph 29 of the Memorandum states that the additional costs that may fall on the Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Courts and Tribunal Service (SCTS) as a result of anticipated increases in speeding prosecutions, "do not take into account any fines which may be paid by those convicted; speeding fines are submitted to the UK Treasury through the SCTS".

The underlined passage reflected the position as we believed it to be at the time the Memorandum was drafted. However, we now understand that this changed on 31 March 2018 by virtue of the Scotland Act 1998 (Designation of Receipts) Amendment Order 2017 (SI 2017/1258).

Under section 64 of the Scotland Act 1998, the UK Treasury may (after consulting the Scottish Ministers) designate categories of receipts which are payable by the Scottish Administration (which includes the SCTS) into the Scottish Consolidated Fund (SCF); the Scottish Ministers are then obliged to pay to the UK Government an amount equivalent to the income they receive from such "designated receipts".

Until the 2017 Order, fixed penalties and fines were both listed as "designated receipts" (most recently under the Scotland Act 1998 (Designation of Receipts) Order 2009 (SI 2009/537), meaning that any income from fixed penalties and fines from speeding offences in Scotland (received by SCTS and paid into the SCF) had to be passed on by the Scottish Government to the UK Treasury.[1]

[1] The 2009 Order allowed some fine income to be retained to cover court expenses.

The Smith Commission recommended in 2014 that the Scottish and UK Governments "should work together to … ensure that fines, forfeitures, fixed penalties imposed by courts and tribunals in Scotland … are retained by the Scottish Government. The Scottish Government's block grant would need to be adjusted in line with the funding principles set out in paragraph 95 to accommodate the retention of these sums" (paragraph 96(6)).

The 2017 Order implemented the first part of that recommendation by amending the list of designated receipts so as to remove both fixed penalties and fines. Accordingly, under the 2017 Order, fixed penalty and fine income (including from speeding offences) no longer has to be passed on to the Treasury and can be retained in the SCF. Separately, under the Fiscal Framework, there has been a corresponding block grant adjustment. As a result, the starting position (post-2017 Order) is revenue neutral, but from now on any additional fine or fixed penalty income generated as a result of devolved policy-making will accrue to the Scottish Government rather than to the Treasury.

The SCTS has provided figures to Mark Ruskell (in response to PQ S5W-19336) on the amount of income remitted to the Scottish Government from motor vehicle speeding fines and fixed penalties.[2] These indicate that just under £2 million in fine income and just under £6 million in fixed penalty income was collected by SCTS in 2017-18. All of the fine income and 90% of the fixed penalty income was remitted to the Scottish Government (the remaining 10% being retained by SCTS to cover its costs). The figures given for 2018-19 (year-to-date) are similar.

If the Financial Memorandum estimates are correct, fine income from speeding offences is liable to increase by between 10% (£0.2 million) and 20% (£0.4 million) as a result of the Bill. This additional revenue should very largely off-set the projected SCTS cost increases.

Fixed penalty income

The SCTS figures also enable me to fill a gap in the Financial Memorandum in relation to fixed penalty income. Those figures show that the Scottish Government currently receives just under £5.4 million each year (i.e. fixed penalty income of just under £6 million from speeding offences, less the 10% retained to cover SCTS costs). While that amount no longer has to be passed on to the Treasury (by virtue of the 2017 Order), it has been offset by the block-grant adjustment.

The Financial Memorandum (paragraph 29) anticipates that prosecutions for speeding will increase by between 10% and 20% as a result of the Bill, and it is reasonable to assume that the number of fixed penalties issued will increase by similar amounts. On this basis, the Scottish Government should receive between (around) £0.5 million and £1 million extra as a result of the Bill. This should roughly offset the cost increases estimated in the Memorandum (i.e. the COPFS cost increases, estimated in Table 2 as between £0.48 million and £0.97 million).

[2] Available here: https://www.scotcourts.gov.uk/docs/default-source/parliamentary-questions/s5w-19336-mark-ruskell---pq-response.pdf?sfvrsn=2

I trust that this letter is helpful to the Committee in its assessment of the Bill's overall financial implications.

A copy of this letter goes to Jim Johnston, clerk to the Finance and Constitution Committee.

Yours sincerely,

Andrew Mylne
Head of NGBU