



OFFICIAL REPORT
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Finance and Constitution Committee

Wednesday 1 March 2017

Session 5



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Pàrlamaid na h-Alba

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FINANCE AND CONSTITUTION COMMITTEE
8th Meeting 2017, Session 5

CONVENER

*Bruce Crawford (Stirling) (SNP)

DEPUTY CONVENER

*Adam Tomkins (Glasgow) (Con)

COMMITTEE MEMBERS

*Neil Bibby (West Scotland) (Lab)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Ash Denham (Edinburgh Eastern) (SNP)
*Murdo Fraser (Mid Scotland and Fife) (Con)
*Patrick Harvie (Glasgow) (Green)
*James Kelly (Glasgow) (Lab)
*Liam Kerr (North East Scotland) (Con)
*Ivan McKee (Glasgow Provan) (SNP)
*Maree Todd (Highlands and Islands) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Kerrouchi (Scottish Government)
Derek Mackay (Cabinet Secretary for Finance and the Constitution)
Mike Stewart (Scottish Government)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Finance and Constitution Committee

Wednesday 1 March 2017

[The Convener opened the meeting at 10:00]

Air Departure Tax (Scotland) Bill: Stage 1

The Convener (Bruce Crawford): Good morning, colleagues, and welcome to the eighth meeting in 2017 of the Finance and Constitution Committee. As usual, I ask members to set their mobile phones, tablets and so on to a mode that will not interfere with the committee's processes.

The first item on our agenda is evidence taking on the Air Departure Tax (Scotland) Bill at stage 1. The committee will have the opportunity to put questions on the bill to the cabinet secretary and his officials. I welcome Derek Mackay, the Cabinet Secretary for Finance and the Constitution, and I welcome back the Scottish Government officials James McLellan, head of devolved taxes, John St Clair, senior principal legal officer, and Mike Stewart, bill manager.

I invite Mr Mackay to make an opening statement.

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): Thank you for the opportunity to make an opening statement on the Air Departure Tax (Scotland) Bill. The devolution of air passenger duty was recommended by the Smith commission, and following the passage of the Scotland Act 2016, the Scottish Parliament has the power to legislate for a tax that will replace APD in Scotland.

In the programme for government, the Scottish Government announced that a bill would be introduced to establish a tax to replace APD in Scotland. It also reaffirmed its commitment to delivering a 50 per cent reduction in the overall burden of the tax by the end of the current session of Parliament, and to abolishing it when resources allow.

The Scottish Government has taken a consultative approach to engaging with stakeholders on a replacement for APD. Last year, we published a policy consultation, which generated a range of views. After reflecting on the responses that we received, we worked carefully to refine our legislative proposals. In addition, we established a stakeholder forum, which I chair, to

provide expert input into the development of our policy and our legislative proposals for ADT.

I have read the responses that the committee has received in response to its call for evidence at stage 1, and I thank all those who have contributed to what has been a thoughtful and thorough discussion of the issues. The committee has taken evidence from a range of stakeholders, and the Government will reflect carefully on all the points that have been raised.

As the committee is aware, the bill was introduced on 19 December 2016. Under the terms that were agreed between the Scottish and United Kingdom Governments in the fiscal framework, APD will cease to apply in Scotland from 1 April 2018. If the bill is enacted, ADT will replace it from that date. The bill establishes the general structure and operation of ADT and includes the power for the Scottish ministers to set tax exemptions, tax rate amounts and tax bands through secondary legislation.

The Scottish Government hopes that the bill will be passed in advance of the summer recess, subject to its receiving parliamentary approval. Once the core foundations of the tax are in place, we will put forward tax rate amounts and tax bands in secondary legislation in the autumn. The fact that that secondary legislation will be subject to the affirmative procedure means that Parliament will have the opportunity to scrutinise our proposals at a later date; it will not be possible for them to come into effect without Parliament's approval.

The approach of setting tax bands and tax rate amounts in subordinate legislation is consistent with the approach that has been adopted in relation to other devolved taxes in Scotland. The Scottish Government is considering all exemptions from ADT in the round, together with options on tax bands and tax rate amounts.

I have listened to the environmental concerns that have been raised by some respondents. The Scottish Government is committed to undertaking a full strategic environmental assessment. As an example of good practice, openness and transparency, the screening and scoping report was made available for full public comment.

The SEA process will continue to develop as the policy proposals themselves are further developed and, as part of the next phase of that process, an environmental report setting out the findings will be published and made available for comment alongside the policy proposals.

More widely, the recently published "Draft Climate Change Plan: The draft third report on policies and proposals 2017-2032" sets out how the Scottish Government proposes to meet the statutory emissions reduction targets under the

Climate Change (Scotland) Act 2009. Those targets, which have been set at levels recommended by the United Kingdom Committee on Climate Change, cover all emissions across the Scottish economy, including domestic and international aviation.

Revenue Scotland, Scotland's tax authority for devolved taxes, will be responsible for collecting and managing ADT in the same way as it has been responsible for land and buildings transaction tax and Scottish landfill tax since 1 April 2015. The Scottish Fiscal Commission will assume responsibility for developing a model for ADT and, once the policy position has been set out, will produce independent forecasts of revenues to inform the Scottish Government's 2018-19 draft budget.

I look forward to answering the committee's questions, convener.

The Convener: Thank you, cabinet secretary. Some of my colleagues will get into the specific details of the bill, but I think it only fair to open with a question about the evidence with regard to the Government's policy. In evidence to the committee, the airline industry and environmental groups had a lot of comments to make about the lack of an evidence base, particularly on economic and environmental issues, for the Scottish Government's stated aim of a 50 per cent reduction in the level of ADT in the current parliamentary session.

I heard what you said in your opening remarks, cabinet secretary, and I note in your letter of 24 February the reference to the impact of the 50 per cent reduction on emissions. Nevertheless, how do you respond to the wide-ranging criticism about the current lack of evidence?

Derek Mackay: Are you talking about evidence specifically on environmental concerns, convener?

The Convener: I am talking about the environmental and economic assessments.

Derek Mackay: Okay. There are a number of reports out there and a great deal of evidence, and you can draw your own conclusions on what each piece of evidence might mean. However, I want to home in on one particular aspect: this tax is one of the highest of its kind in the world—and certainly the highest in Europe—and it is self-evidently the case that there is an issue in that respect.

Indeed, our agencies have informed us, as a result of their engagement with airlines and airports, that that is a key consideration for airlines when they think about where to establish new routes, and it is therefore a consideration with regard to attracting economic growth. It is, as I said, a key consideration for airlines in deciding which destinations to go to, and from that

evidence, that information and that experience, the tax seems to be a barrier to Scotland developing new routes. Some Scottish airports, such as Edinburgh and Glasgow, have had some success, while others, such as Aberdeen, are not in as strong a position and have not enjoyed the same growth. The experience of the airports is that APD has had and is having an impact on attracting and sustaining routes.

As I said, a number of reports on the matter have been published, and there is something of a consensus around and a consistency of views on the economic benefits of a 50 per cent reduction. Going beyond the question of what a policy change will look like, I note that two operators—easyJet and Ryanair—have identified how they would allocate routes in future and have said that they would increase capacity if the tax were cut by 50 per cent.

I suppose that those are the different pieces of evidence that I draw from—what has been published, what operators and airports are telling us about their experience, what would assist our economic case and what would improve our international connectivity—in recognition of the rate of this tax across Europe and more widely. Furthermore, the World Economic Forum has identified air links as an important driver of global competitiveness.

On the environmental side, obviously more work has to be done on the specifics of the policy. What we have at this stage is enabling legislation to allow us to collect the tax; more detail will come with the tax rates and bands, and more information about the impact of the proposal will come from the required strategic environmental assessment, which must consider those matters and publish the evidence on what, specifically, the policy looks like with regard to the rates and bands.

In the context of the Government's ambitious environmental policies, it is recognised that the policy could lead to an increase in emissions and that we will have to work harder in other areas. To put the emissions into context, as I understand it, an increase of 3 per cent in aviation emissions would be a 0.1 per cent increase in total Scottish emissions. However, based on the evidence that there is an environmental impact, there is a recognition that that is an increase and there must therefore be efforts in other areas. There can be environmental studies into the generic policy, but more detail will follow from the setting of the rates and bands. That will give more clarity on the environmental impact and the economic output.

The Convener: I understand that we are dealing with the principle of whether there should be a tax, but can you give us an understanding of what the timescales might be? I will come back to

the economic stuff, but can you give us any detail of the timescales for the strategic environmental assessment? When might that be forthcoming? Obviously, if and when the statutory instrument emerges, that will be a key point for members to determine whether the evidence exists to examine that.

Derek Mackay: That is right, convener. We have to have the information from the SEA as we set the tax policy. I ask Mike Stewart to cover the timescales in the build-up to that determination.

Mike Stewart (Scottish Government): The remaining step of the SEA process is to publish an environmental report as well as a set of proposals from the Government on the tax banding and tax rate amounts. There will be a 12-week period for public consultation, which is a statutory part of the SEA process. That consultation process must be concluded and a reasonable amount of time must be allowed after that before the secondary legislation for the tax bands and tax rate amounts can be laid before Parliament. As the cabinet secretary said, the Government plans to set out the tax bands and tax rate amounts in secondary legislation, which will follow enactment of the bill. We will probably lay that secondary legislation some time in the autumn. I cannot give exact timings but, working back from that on the basis of a 12-week process, the SEA consultation will most likely begin before the summer recess.

The Convener: So it would be at least 12 weeks before the statutory instrument is brought before Parliament.

Mike Stewart: Yes, plus the reasonable amount of time that has to be allowed after the conclusion of the consultation, to enable the Government to take on board any feedback that comes in. With most consultations, most of the responses tend to come in right at the end of the consultation period.

The Convener: I will deal with the economic impact assessment now. Committee members are aware that a number of pieces of work have been done by the airports or airline operators on their view of the issue. However, has the Government undertaken any economic assessment of the impact of the 50 per cent reduction in the tax?

Derek Mackay: Our officials have certainly looked at all the reports and considered them. To the best of my knowledge, we have not commissioned any independent research of our own, but we have certainly looked at all the reports that have been published and provided, and we have also looked at the experience in Ireland.

The Convener: Will you commit today to carrying out an independent assessment of the economic case?

Derek Mackay: If the committee wishes me to look at that, I will certainly consider it—absolutely. I again make the point that the bill is enabling legislation, to allow us to collect the tax. Obviously, a key stage is when we decide at what levels to set the tax. The consideration of that will probably tell us much more about the environmental and economic impact. If the committee, as one of its recommendations, wishes me to consider that, I will do so.

The Convener: It is highly likely that we will recommend that, although obviously we will not consider our report for a couple of weeks yet.

That is a helpful beginning. I think that Ivan McKee wants to raise issues about the economic impact.

10:15

Ivan McKee (Glasgow Provan) (SNP): Yes, I wanted to drill further into that. It might be difficult to go further, because you do not have an independent economic assessment at this stage, but I wanted to go into a bit more detail. I am starting from the position that one of the aims of the 50 per cent reduction is to generate more economic activity, as it was believed that that would bring more money into public sector finances as a consequence.

We have seen some analysis by Biggar Economics about Edinburgh airport, and I would like to go a step further and look at the range of routes and different types of passengers, because some of those have a much higher impact on potential economic growth than others. Inbound tourism is clearly preferable to outbound tourism, medium-haul and long-haul travel might bring different economic benefits, depending on the routes, and business passengers bring a greater economic benefit than tourism does. Have you looked at segmentation and at which segments give the most economic benefit, so that you can tailor the tax to enable and encourage growth, or are you just taking a blanket view and making the change in the hope that it stimulates economic activity across the board?

Derek Mackay: We want to refine the policy at the next stage, when we set rates and bands, to help us to achieve the Government's economic strategy, which will have to adapt to circumstances such as the changed European outlook and our connectivity and business and tourism opportunities, which have changed as well. The convener asked whether the Government has commissioned its own independent survey, and the answer is that we have not done so but we have looked at all the other pieces of work that are in the public domain, who commissioned them, what they were for and the summary of each

report. All that can be fed in, once we have the power and the ability to collect the tax, so that we can arrive at a decision on the rates and bands.

There are environmental issues to be considered as well as economic opportunities, but the Government's economic message is about Scotland being open for business, supporting tourism and wanting strong connectivity, and many members around this table understand how airports can be drivers of the economy. Our message on connectivity is that it strengthens our position on Europe, and all those things will feature in the next stage of considering what gives us economic benefit and what the Government's spending plans will be. How the tax ties in with all that is a matter for future consideration, and we will look at how any reduction in the tax should be applied and distributed, but I am not prejudicing that this morning. We are talking about the foundations of the legislation that will enable us to collect the tax, but we are not putting our proposal into the public domain, because that has yet to be determined.

Ivan McKee: That is clear. You will look at the data, you will consider segmentation and which segments of the market might generate the most economic stimulus, and there will be further consideration at a future stage.

Derek Mackay: Of course.

James Kelly (Glasgow) (Lab): It is disappointing that the Government is introducing a major piece of legislation without having conducted its own research and assessment. I note the minister's comments that he will await the committee's recommendation, but I would like to ask about a specific point. In preparing to introduce the bill, had you given any consideration to the impact of Brexit?

Derek Mackay: That is certainly a consideration as to how we would apply the reduction or set rates and bands, and your point is helpful as it shows that putting everything in primary legislation would not necessarily be the appropriate thing to do, because the world is changing, routes and operations are changing, and politics and budgetary considerations are also changing. As with other taxes, we have to be flexible and adept, because the international connection issues would naturally feature in our policy going forward.

James Kelly: Does that mean that you are reconsidering your policy intent to reduce the tax by 50 per cent?

Derek Mackay: The policy intent is to reduce the tax by 50 per cent and then abolish it when resources allow. That 50 per cent reduction is intended to be over the parliamentary session, so the policy intent has not changed. How that reduction is distributed is still to be determined.

James Kelly: You say that the bill is enabling legislation, but you are setting out a clear policy intent. It will have a substantial impact, so it is important that there is robust research to back that up.

The Parliament debated Brexit yesterday, and the Economy, Jobs and Fair Work Committee's report on that raised a concern that the impact of Brexit would have an adverse effect on poor and elderly households. Is it a consideration that reducing the tax would benefit families that are able to afford flights but adversely affect poor and elderly households, as the Economy, Jobs and Fair Work Committee underlined?

Derek Mackay: The wider point is the one that you make on the Government's wider spending plans. I do not dismiss that, but the issue of Brexit raises a point about international connectivity. Post the Brexit vote, we want to ensure that it is clear that Scotland has a desire to remain connected to the world. Connectivity is also important for economic and business growth. Business organisations also support that position.

You are right that there is a public expenditure point, but the other points are international connectivity, engagement with Europe and the decisions that are to be taken on the tax rates and how tax is distributed within the financial envelope. All those matters have to be considered when we consider the tax rates and bands. I am not avoiding the questions on policy intent but that is not what I am asking you to determine.

Murdo Fraser (Mid Scotland and Fife) (Con): The evidence that we have had for and against a reduction has been poor. When you introduce the statutory instruments, it would be useful for them to be backed up with a proper economic analysis. I reinforce the points that have been made about how helpful the committee would find that if it were possible for that to be done.

My main question concerns timing. I understand that your policy commitment is a 50 per cent reduction by the end of the parliamentary session. Will you say anything more today about when you intend to introduce that reduction?

Derek Mackay: No, because that would be premature. We have to establish the legislation, as that allows us to collect the tax. After that, there is further discussion to be had on what a reduction will look like and how it will fit with our economic plan and connectivity ambitions and with environmental considerations. All of that should be taken together. There is evidence from the impact of Ireland's abolition of the tax, but we should be able to consider all the evidence—everything that currently exists, everything that we are trying to achieve as a country and our economic strategy.

It is fair to say that we have to return to Parliament with the evidence on the reduction, what we would be trying to achieve with our preferred approach and whether it makes economic and environmental sense. We have a broad policy intent. Having established the ability to raise the tax, we will return to Parliament with how that policy intent is refined into the tax proposition that is to be considered. The more information that is produced to support that case, the better. I get that point and I commit to doing that.

Murdo Fraser: I want to be clear on timing. Are you saying that you plan to introduce the instruments in the autumn and that, at that point, you will produce all the evidence to go along with them?

Derek Mackay: That is correct but, as has been set out, in advance of that, we will publish the SEA, which will speak specifically to the tax options.

The Convener: We have another couple of questions on wider economic and environmental issues, and then we will go to Patrick Harvie on the specifics of the policy and links to the bill. I believe that Neil Bibby has a wider question about the economic policy, and Maree Todd has a question on wider environmental issues.

Neil Bibby (West Scotland) (Lab): I want to follow up on James Kelly's question about the impact on people in Scotland of the proposed cut. Cabinet secretary, in addition to looking at your economic impact case, will you look at the impact on the poorer sections of society versus that on the most well off? Will you look at the impact that your policy will have on those different groups of people in Scotland?

Derek Mackay: Obviously, it is right that any financial decision that the Government makes takes into account those kinds of consideration. However, it would not just be a matter of what is raised by way of the tax, because we must also reflect on the economic benefits that would come from growth, whether that is new routes, sustaining existing routes or supporting our airports. Mr Bibby's regional area includes Glasgow airport, which is also in my constituency area, so I should declare an interest in that regard.

Supporting our airports has wider benefits through the employment that that brings. There are many aspects to the policy, but determining a tax and a potential tax reduction has to be considered in the context of the Government's overall spending plans.

Neil Bibby: You referred to the research that you have looked at. The Office for National Statistics has suggested that, if APD was cut in half, that would save the top 20 per cent of

earners £73 but it would save the poorest just £4.50. The Civil Aviation Authority previously identified that the mean income of those who fly from Glasgow, Aberdeen, Edinburgh and Inverness is over £40,000 a year. Are you aware of those reports? Is that information part of your reflections on the research that is available?

Derek Mackay: Yes, I have looked through a number of the reports. However, I repeat that I do not think that we can view the policy in only that way. I know that we are going beyond the bill to the issue of setting the tax and looking at what the rate could be and where the reduction could be distributed, but I think that we have to look more widely at all the potential economic benefits of the policy. If the policy will generate wider economic growth, we must consider who will benefit from that. For example, there is a spectrum of employment opportunities at an airport, and not all airports are in the strong positions that Edinburgh and Glasgow are in. It is a fair comment that we must look at everything in the round while making a determination on the rates.

Neil Bibby: You said that you have looked at the experience in the Republic of Ireland. As part of your research, have you also looked at the impact on money going to the public purse in Ireland?

Derek Mackay: It is funny that you should mention that, because when I came into my post I had a flurry of meetings with other finance ministers, including the Chancellor of the Exchequer, and I had the pleasure of meeting Paschal Donohoe, an Irish finance minister who is more focused on public expenditure. I asked him about the airport tax decision in Ireland, as I was interested in it. He said that he absolutely believed that it was the right thing to do economically and that it has supported the Irish economy. That was the view of the Irish expenditure and finance minister, but the evidence supports that view and shows that the policy delivered more economic activity, which the Irish believe helped to fuel their economy.

The figures show that, since Ireland abolished its air passenger tax in 2014, Dublin airport has achieved the highest rate of passenger growth of any major airport in Europe, with passenger numbers increasing by 15.4 per cent in 2015 and a year-on-year increase of 13.4 per cent in the first half of 2016. I am sure that the Irish would argue that that led to further economic benefits and tax receipts that helped to fuel the economy.

Neil Bibby: It would be helpful to have more information on that.

Derek Mackay: Okay.

Maree Todd (Highlands and Islands) (SNP): As you know, cabinet secretary, I represent the

Highlands and Islands. Environmentalists have made a reasonable case that supporting rail alternatives to air travel would be more environmentally friendly, but my part of the country does not really have rail alternatives. Some evidence was put forward to suggest that other alternatives might not be environmentally friendly—for example, a sole person driving a large car and getting a ferry is probably less environmentally friendly than someone taking a flight. Can you give us your thoughts on that? I know that, again, we are talking about the detail.

10:30

Derek Mackay: As a former transport minister, I am very pro rail; it has a lot of benefits in terms of the environmental impact. Domestically, we are moving increasingly towards electrification. There are subsidy issues with rail, but I am absolutely pro rail. However, as finance minister, I cannot view the world only through the prism of the central belt, and your point about the Highlands and Islands is very well made: not everyone has access to the central belt stations to get to London.

I will make two points. First, taking a national perspective, air travel gives a level of connectivity that would not otherwise exist. That is significant. Secondly, it is not convenient for everyone to travel from certain parts of the country to other parts of the UK by rail, and aviation offers different destinations and routes in comparison with rail.

I do not think that there is a battle between rail and aviation, because each presents different opportunities for different parts of the country. I repeat that we must not view the issues solely through the prism of the central belt.

The Convener: Does Liam Kerr have a supplementary to that?

Liam Kerr (North East Scotland) (Con): Yes—it is a matter arising from that response. Cabinet secretary, you rightly say that not all airports are in a similar situation to that of Edinburgh and Glasgow, and that you do not want to view things through the prism of the central belt. When you do your robust evidence gathering, will you investigate the possibility of differentiated schemes for different areas and different airports, depending on your preferred outcomes and on local needs?

Derek Mackay: You make a fair point about considering local needs, but the best way to achieve that is to design a national policy that serves local needs. It may be difficult to establish a national tax policy that can be segmented in that way, but the key point is whether we will understand the needs of every part of the country in designing a policy, and the answer to that is

yes. There are different ways to do that, but our policy must ultimately be compliant and consistent as well as practical for operators to administer.

We will do that by designing the right national policy, rather than try to have different policies for different parts of the country. That would be another way to do it, but it might not be legally compliant.

Patrick Harvie (Glasgow) (Green): Good morning, cabinet secretary. I think that the idea is that, now that everyone has the plates spinning, my job is to make you drop one or two of them. I will start with one of your first comments. You said that there is a range of reports and research on the economic evidence. Can you tell us which ones you rely on?

Derek Mackay: I certainly rely on the advice from officials, and I have looked at all the reports to produce a consensus. There is a range of reports, and I would not pick and choose between them and say that one is more credible than the others. They all inform the Government's position. I do not think that it would be right for me to set out a hierarchy or prioritise them.

Patrick Harvie: So there is not an economic projection—on, for example, the number of jobs that would be created either in the aviation industry or through induced employment in the wider economy—that you consider to be reliable.

Derek Mackay: There seems to be a consensus around a few of the reports that converge on some of the benefits. The PricewaterhouseCoopers, York Aviation and Edinburgh Airport reports seem to be consistent in some respects in their outputs, but I would not pick any one individual report, having looked at a review of them all.

Patrick Harvie: So the Scottish Government does not have a view on what level of employment or economic activity would be generated by its current policy.

Derek Mackay: Each report has looked at the policy and arrived at what it thinks the economic benefits are. To be absolutely accurate, one of the determinants will be what operators do based on Government policy, and what they commit to by way of capacity, additional routes or sustaining routes—whatever that happens to be.

Patrick Harvie: And you do not know what will happen.

Derek Mackay: The operators now say that they cannot give absolute certainty as to what they will do until they know what the tax rates will be. The consensus is that any tax reduction—the airlines of course want the biggest reduction possible—will lead to more routes, more

connections and more capacity and, therefore, more jobs and more economic growth.

The extent to which that boils down to absolute numbers will depend on what the Government proposes by way of a tax reduction and how and when that is distributed.

Patrick Harvie: Therefore, you accept the claim about increased numbers of routes without question, even though in Northern Ireland, for example, after the abolition of its aviation tax, some routes have simply shut down. The tax rate does not change the viability of the route itself.

Derek Mackay: It would change the viability of some routes, because of behaviour.

Patrick Harvie: Which routes?

Derek Mackay: Which ones in the future in Scotland? I do not know which ones, because it is hard to assess right now.

From the perspective of the airlines and airports, some routes are doing very well and some will change—some were announced last week, I think. Some routes will be successful and some will not.

The advice is that, in trying to secure new routes to Scotland, we are not competitive because we have one of the highest taxes of its kind in the world, and that is a consideration for operators when they look at where to locate new routes. Some airports have been quite successful of late and others not so; some routes are successful, others not so. In establishing new routes, the first thing that an operator will look at is the tax take. Therefore, it is a consideration in all of those examples.

It is hard to be formulaic on the outcome of a tax policy without having set it. Of course that factor should be fully considered when we determine the distribution of any reduction and how the tax is applied.

Patrick Harvie: Therefore, you still fall back on the advice from the industry, which would like to pay less tax.

Derek Mackay: Well—

Patrick Harvie: Let us look at the tourism deficit. We know that tourism results in some people coming to Scotland and spending money, but that it results in more money being spent by Scots who travel overseas for holidays elsewhere and spend a larger amount of money. There is a deficit. Will your policy see that deficit go up or down?

Derek Mackay: There is obviously an economic return on people coming back, when the routes are established.

Patrick Harvie: The point is that establishing a new route, or a greater flow of traffic on an existing route, will see money go in both directions. At the moment, we have a tourism deficit. Will that deficit go up or will it be reduced as a result of your tax changes?

Derek Mackay: It is hard to say, because I have not proposed what the tax changes will be.

Patrick Harvie: You have stated that the overall policy is a 50 per cent reduction in the tax take over the course of this parliamentary session.

Derek Mackay: You asked about what the impact will be on routes. In answer to that, I say that there will be more passengers, more capacity and more routes. Surely Patrick Harvie, as an internationalist, would welcome more international connections opening up to the world, so that there is engagement and ability to travel. We believe that the policy will generate more economic growth for Scotland.

Patrick Harvie: You believe that, but you are still not citing any evidence to demonstrate it.

Derek Mackay: You are asking me to cite evidence on what routes will change as a consequence of the tax policy that I have not set out.

Patrick Harvie: Okay. Let us look at the fiscal impact—the impact on the public purse. We have heard evidence—

The Convener: I am sorry to interrupt but, before we go there, I know that one of Ash Denham's questions is on the issue of routes. We will complete that and then come back to Patrick Harvie's fiscal question. Both Ash and Willie Coffey have questions on routes, so we will exhaust that and then come back to fiscal impacts.

Ash Denham (Edinburgh Eastern) (SNP): New routes are key to economic impact. A friend of mine who travels regularly for business often finds it difficult to find a flight to the European destination that they are going to, which means that they have to take two flights and go via Heathrow. That is not great from an environmental perspective, and it is not particularly good from a business perspective.

Indeed, an Ernst & Young report that came out last year on foreign direct investment said that regional connectivity was an important factor when businesses made investment decisions. I want to get to the bottom of whether that is the main thrust or objective of the Government's policy. Instead of competing with, for example, Newcastle airport, are we actually trying to compete with Stockholm or Copenhagen for new routes?

Derek Mackay: That is a key point. First of all, there has to be a benefit. I am not trying to

prejudice things with regard to where any reduction might be distributed, but there is clear economic benefit in getting access to hub airports, because that unlocks so many other opportunities and destinations. We are focusing on the opportunities for not only direct flights but flights to hub airports and all the connections that they bring.

There is a view that the policy is just about competing with other UK airports, but that is not the case. It is about competing with airports such as Dublin, Stockholm, Lisbon and Barcelona and ensuring that we are able to attract airlines to provide routes to Scotland. The competition is, as you have suggested, much wider than the UK.

Ash Denham: Ryanair recently announced that, as a result of this policy, it was considering bringing 15 new routes to Scotland. What expectations can we have about whether the decisions on those routes will be long term?

Derek Mackay: The issue with some air operators in Europe is that they can be quite adept and flexible, therefore the more competitive we are, the better placed we are to attract such operators and their European access. Some short-haul European routes are easier to change than others that might have a longer decision-making and implementation period and which therefore have sustainability. The Government wants new routes to be sustained, and part of the policy approach is to try to retain what we have.

Ash Denham: Finally, if the objective is to increase the positive economic impact on Scotland, how will we judge whether the policy has been successful?

Derek Mackay: That can be judged through the Government's economic strategy. However, as far as international connectedness is concerned, the evidence of success will be more routes, more passengers, more destinations reached through Scotland's airports and more economic growth, as well as sustaining what we already have.

The Convener: On that specific point, evidence that we have received from the Chartered Institute of Taxation suggests that there should be some form of monitoring to assess whether the bill's intended outcomes actually deliver the objectives in the policy memorandum. Will the Government consider that point?

Derek Mackay: Yes, I think that it would be helpful to consider an evaluation of the economic outputs that the fiscal policy has achieved. There will, of course, also be the environmental assessment, but I am open to that kind of evaluation of tax policy and intervention.

The Convener: That is something that we can reflect on when we come to write the committee report.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Cabinet secretary, I want to briefly fly you down to Prestwick. At previous committee meetings, we have heard evidence of the positive impact of this kind of policy on regional airports in Ireland; indeed, a moment ago you mentioned the strong increase in passenger numbers in Dublin. At a meeting of the British-Irish Parliamentary Assembly that I attended in 2014, Ryanair's chief executive, Michael O'Leary, said quite clearly that he could double passenger numbers through Prestwick if the tax were removed completely—and that was only in relation to the London and Belfast routes. Given what we have already said, if you are asked to conduct any kind of analysis for the committee, can you ensure that there is some kind of regional impact assessment of airports such as Prestwick so that we can see what might be the positive benefits for them?

Derek Mackay: I respect the member's interest in Prestwick, but I have to point out that we are trying to support the sustainability of the overall sector. I come back to Liam Kerr's point about the impact with regard to local circumstances. Those are all matters that we would consider in arriving at a decision on tax policy. I am well aware of Ryanair's operation at Prestwick and the comments that it has made in the press about what it would do if APD were reduced.

10:45

Willie Coffey: Is there any more hard data from Ireland about the impact on the regional airports? The issue has been mentioned several times, although we have not had that particular evidence presented or sent to us. Is there any hard data to give us an indication of what has happened in the regional economies in Ireland as a result of the tax going?

Derek Mackay: I will see what further information we can provide to the committee.

Willie Coffey: Thanks very much.

The Convener: Patrick Harvie will take us back to the fiscal stuff. I should also say that a number of members still want to get in.

Patrick Harvie: Cabinet secretary, several of the reports that you have cited claim that there will be a benefit to the public purse through increased taxation in other areas, as reducing this tax generates other forms of economic activity that contribute to the tax take. First, do you agree with that analysis? Secondly, have you achieved an answer to the question that the representatives of Edinburgh Airport, for example, were not able to

answer when it was put to them by the committee about the proportion of induced taxation that will be paid to the Scottish Government in devolved taxes and the proportion that will be paid to the UK Government in reserved taxes?

Derek Mackay: No, I do not have an answer to that question, Mr Harvie, but it is a fair one. What I will do is tell you why it is not a reason for our not doing anything. When the Scottish Government makes an intervention in an area to support the economy, it does not always get the tax receipt from that, but that does not mean that we should not make the right decision to grow our economy. I do not have the analysis of what would go to the Chancellor of the Exchequer and what would come to the Scottish Government. As I have said, the consensus is that the policy will deliver greater economic growth, but I do not have such a breakdown.

Patrick Harvie: So you do not know whether, if the Government's policy objective is met and you see the kind of economic activity that you would like to see generated, that will put the public finances in the Scottish Government in a stronger or weaker position.

Derek Mackay: As Mr Harvie will be aware, the nature of the block grant adjustment is such that we will know specifically what the return will be from the policy on air departure tax once it is being raised. However, it is hard for me to determine the share of other taxes that we will benefit from. If the policy improves employment, there will be an increase in income tax, and we will also have assignment of VAT in due course. However, it would be hard to break all that down, and my giving a figure now would pre-empt my setting of the tax rates, which would more adequately inform such an analysis.

Patrick Harvie: I was going to ask about income tax. The three studies that you have cited as having some reliability attempted to put figures on, for example, the income tax being generated, but they seemed to be based on out-of-date income tax rates, bands and personal allowances. Has the Scottish Government attempted to update that work, given how much above the personal allowance the induced employment generated in the hospitality sector might be?

Derek Mackay: Not specifically. I make the point again that that would pre-empt what the tax rates might be.

Patrick Harvie: To me, that reinforces the notion that you are asking us to pass a bill that places no requirements or constraints on ministers regarding the issues that they must consider in proposing rates and bands.

Derek Mackay: I do not agree. I have told the committee that I think that there should be

economic and environmental consideration in advance, as we put our tax position across. What I am asking the Parliament to consider right now is the ability to raise the tax.

Patrick Harvie: Would you be open to placing those requirements on the face of the bill?

Derek Mackay: I have given a commitment with regard to the information that the Government could provide. The SEA is a requirement that we are duty bound to deliver in any event.

Patrick Harvie: I would prefer that to be conducted before a policy such as a 50 per cent cut in APD was adopted, and I would prefer that we looked at that social, economic and environmental analysis before deciding what the policy should be instead of deciding on a policy and then looking for evidence to support it.

Derek Mackay: We are getting into the realms not just of what the Government is proposing but of what political parties have proposed in their manifestos and why we have reached the decisions that we have reached. As I have said, there is evidence that what is proposed will support economic growth, but the situation is dynamic because of international events, public expenditure and the dynamics of Parliament. A range of things come into play. I am accurately outlining the steps that we will take before I put a tax proposition to members. You are asking me specifically about the evidence that should rightly be considered before we take those steps, and I am being as open as possible about how that is presented to Parliament, through committee, in a due process.

Patrick Harvie: However, you have already decided on a policy—and it is a 50 per cent reduction in APD over the current session of Parliament.

Derek Mackay: Because this Government believes—

The Convener: You have made the point, Patrick.

Patrick Harvie: Okay. On the environmental aspects, I note that, following our first evidence-taking session, we received a letter from one of your officials, the deputy director of the fiscal responsibility division, telling us that

"the Scottish Government has made use of an energy modelling system ... to assess how effort"

on carbon reduction

"is best shared across sectors of the economy."

Is there a view in the Scottish Government about what share of that effort should fall to the aviation sector?

Derek Mackay: In terms of environmental effort?

Patrick Harvie: In terms of carbon reduction, yes.

Derek Mackay: We have set out a climate change plan. We recognise the potential for increased emissions as a consequence of the policy, so we will have to work harder in other areas. We will produce the SEA on our policy proposition—

Patrick Harvie: I am sorry, but I asked quite a specific question. The statement is that the energy modelling system assesses

“how effort is best shared across sectors of the economy.”

I am asking whether the Scottish Government has a view about what share of that effort should fall to the aviation sector. In effect, the UK Committee on Climate Change thinks that aviation emissions should be capped at 2005 levels by 2050, while the aviation industry says that it can halve emissions from that 2005 baseline by 2050. Whether we regard its efforts in that regard as credible, that is what it says it can do. Does the Scottish Government have a policy on what aviation emissions can be, or how much they can be allowed to grow?

Derek Mackay: As Mr Harvie knows, I have responsibility for fiscal policy. I am happy to engage with the Cabinet Secretary for Environment, Climate Change and Land Reform and report back on the wider environmental view on that, but I am sighted on statistics—

Patrick Harvie: Surely you have done that before reaching this point with the bill.

Derek Mackay: As I have said, the environment secretary has lead responsibility for environmental matters. You are asking more deeply—

Patrick Harvie: What did they say?

Derek Mackay: That is what I am saying. I will return to you with Roseanna Cunningham’s position on the apportionment of climate change emission contributions.

Patrick Harvie: So you have not asked.

Derek Mackay: Mr Harvie, I was able to outline our position. If you want me to go through the position on the environment in more detail, I can do that—

Patrick Harvie: I am doing my best to give you a chance to do so.

Derek Mackay: If you wish me to continue, I covered this in my statement earlier, saying that we recognise—

The Convener: I have had enough of the two of you going back and forth on this, so I am going to

stop that particular conversation at this point. Is there anything else that you want to ask the cabinet secretary, Patrick?

Patrick Harvie: Yes. The same letter says that the Scottish Government is

“prepared to work harder in other areas”

based on the increased aviation emissions. Can you tell us what preparation there has been in that respect?

Derek Mackay: As Mr Harvie knows, we have taken our climate change plan to Parliament and we have a number of proposals and recommendations on what we will do to reduce emissions across transport, housing and agriculture and through energy efficiency and decarbonisation of the transport system. There is a range of policies by which we will meet our statutory targets on the environment.

However, we recognise that, even with some of the progress that has been made in aviation around fuel efficiency and technology, that will take us only so far. If there is growth in the sector and there are more emissions, that increase has to be within an area that is tolerable to the Scottish Government. Increased emissions as a consequence of the policy might amount to about 3 per cent of aviation emissions—which is 0.1 per cent of total Scottish emissions—and the Committee on Climate Change, which has looked at the matter, has advised that any increase in emissions from the reduction in APD is likely to be manageable.

We have published the draft climate change plan, which sets out how the Government proposes to meet its statutory emissions reduction targets under the Climate Change (Scotland) Act 2009, and, as I have said, a range of actions in other portfolios and sectors is contributing to our environmental case. We will also look at the strategic environmental assessment to see what else can be done, and ultimately we will arrive at our decisions on tax rates.

Patrick Harvie: Neither that answer nor the draft climate change action plan tells us what actions are going to be necessary in other sectors to pull the weight that aviation is not being required to pull because it is being given a free ride on climate change.

Derek Mackay: But it gives the overall targets on climate change and what we are doing in other sectors to meet those statutory targets.

Patrick Harvie: So you do not worry at all that following the example of Ireland, which you have used as a comparison with regard to the economic benefit that it feels that it has had, will leave us in the same position as that country. It has less ambitious climate change targets, but the most

recent report that I could find shows that it is failing to meet them.

Derek Mackay: No, I do not believe that our climate change targets would be undermined.

Patrick Harvie: What is the basis for that belief?

Derek Mackay: Well, I think—

The Convener: Come on, Patrick. You have had a fair crack of the whip in this area.

Patrick Harvie: But there is nothing here.

The Convener: It is becoming a ding-dong exchange again, and it is not really getting us anywhere. We will move on to Adam Tomkins on the issue of exemptions.

Adam Tomkins (Glasgow) (Con): Cabinet secretary, you might be relieved to know that I do not want to ask you about the economic impact or the environmental assessment of the tax. I want to ask you about something in the bill—or, rather, about something that is not in the bill. If I have understood it correctly, tax bands, tax rate amounts and tax exemptions are not legislated for in the bill. Is that correct?

Derek Mackay: Yes.

Adam Tomkins: Why have you made the judgment not to legislate in the bill for tax exemptions given that tax exemptions are included in the current APD legislation and in the LBTT legislation that the Parliament passed in the previous session?

Derek Mackay: That is a good question. The reason for our decision is that we want consistent flexibility and the ability to adapt, as it is the Government's intention to match the current exemptions for passengers and ministers have previously agreed to retain under ADT all the current UK APD exemptions. However, as Mr Tomkins will be well aware, there is a difference between Scottish legislation and what might be done at Westminster, which has a finance bill every year. That practice is, of course, worthy of consideration by the Scottish Parliament, and the budget review group might conclude that we should do that. However, because we do not have that legislative route every year through which to change elements of finance policy—or legislative policy—it is more appropriate that we use secondary legislation to make such changes. That is not fundamental to the operation of the bill or the tax, but the Parliament might want to have the flexibility to change tax rates and exemptions.

We can take a view on whether it was right that, in the past, exemptions were included in primary legislation, but I think that it is far more appropriate to have an enabling power that allows ministers and the Parliament to consider matters, because

that allows us to respond far more flexibly to changing circumstances. If the UK Government did something by way of exemptions and we felt that it was important to replicate that in Scotland, the Government and the Parliament should have the ability to do that without returning to primary legislation and all the stages that are required for that. The use of secondary legislation would still allow maximum parliamentary scrutiny.

It is true that rates and bands feature more in LBTT and landfill tax, which are devolved to Scotland. However, I think that exemptions should be dealt with through secondary legislation for reasons of flexibility and the ability to adapt.

Adam Tomkins: Are you going to take the exemptions out of the LBTT primary legislation and put them in regulations so that you can have more flexibility?

Derek Mackay: I am not proposing to do that.

Adam Tomkins: I am struggling to understand what the difference is. Why does having the exemptions in the primary legislation for LBTT give you enough flexibility but putting exemptions in the bill that is before us not give you enough flexibility? I do not understand.

Derek Mackay: It is a matter of fact that putting exemptions in primary legislation does not give us the same flexibility, but I am not suggesting that we should revisit the primary legislation on LBTT or the landfill tax. Particularly for LBTT, the exemptions seem to be pretty static. Exemptions for passengers under the air departure tax might also be fairly static. For example, an exemption for children who are aged under 16 on the date of travel in economy class is not likely to change. However, other exemptions might be subject to change. If the UK Government considers that there should be a change in exemptions, it can make that change through a finance bill in the House of Commons, but I do not have that option.

11:00

Adam Tomkins: It might be helpful if you could give us a table of all of the changes to passenger and aircraft exemptions that have occurred at United Kingdom level since the introduction of the tax, so that we could see how frequently the flexibility is required in practice. I do not know what the data on that would show.

There is a twofold concern. First, effective parliamentary scrutiny is important, irrespective of the kind of legislation that we are talking about. We all know that the most effective parliamentary scrutiny comes with primary legislation and that all forms of secondary legislation have secondary levels of parliamentary scrutiny. Secondly, there is a point about legal certainty and the rule of law. I

accept that the situation is fast moving, particularly with regard to the changing needs of Scottish connectivity, Brexit and all of that. Nevertheless, even fast-moving areas of Government regulation have to be subject to the rule of law, and the way in which we subject Government discretion to the rule of law is by having as much as possible in primary legislation, not by having as much as possible in the hands of ministers. Do you accept all of that?

Derek Mackay: I think that some of what you say is deliberately provocative, but I accept that the Parliament should scrutinise those functions. I would not describe statutory instruments—whether they are subject to affirmative or negative procedure—as a means by which ministers can escape their duty to attend to Parliament or make a case. I attend committees for the purposes of full scrutiny of statutory instruments, and the committees and the chamber can decide what to do with them. I am not asking for an executive order; I am asking for statutory instruments to give us the ability to change. If I was talking about an executive order, we might be having a completely different debate and Mr Tomkins's point might be stronger.

Adam Tomkins: I am not accusing you of replicating the style of administration of President Trump—

Derek Mackay: I am glad to hear it. That might be one of the plates that Mr Harvie was trying to encourage me to drop.

Adam Tomkins: I am trying to understand the extent to which it is necessary for you and your ministerial colleagues to have the flexibility to change not the bands and the rates but the very shape of the tax. Exemptions are qualitatively different from the bands and the rates. Bands and rates are about how much is liable; exemptions are about who is liable to pay and in respect of what. That is a substantial and qualitative difference. My view is that we have not heard enough about why it is necessary to put those exemptions into secondary legislation rather than keep them in the primary legislation when that has not happened with UK legislation on air passenger duty and when it did not happen with this Parliament's legislation on LBTT.

Derek Mackay: I will happily provide a comparison. There are two key reasons for what we are doing. In order to remain competitive, we must have the ability to change through due process, using a statutory instrument, if we choose to do so. You say that a different approach is being taken on air passenger duty. That is because the UK Government has the ability to make—I decided not to say “has the luxury of making”—amendments through a finance bill that has its own process at Westminster, which is a

process that I do not have here. That is the first reason, and I will happily provide more detail on that.

The second point concerns consideration of tax rates in the round. There might be a better way of delivering some of the exemptions in that way. It is about having the ability to produce not only good primary legislation but good legislation in general that delivers outcomes. There might be a better way of doing things, which the committee can explore.

The Convener: Liam Kerr has a supplementary question.

Liam Kerr: It is just a small one that arises from Ash Denham's earlier question.

Cabinet secretary, you are making a direct link between a reduction in the tax and an increase in the number of flights by operators such as easyJet and Ryanair. What modelling are you doing of that? What evidence do you have of the impact of, say, the UK Government introducing a 50 per cent reduction after you have done so? Would that ruin the scheme or negate any positive impact?

Derek Mackay: One of the drivers for our proposal—the policy intent—is a desire to make Scotland more competitive and to give us an advantage. Currently, APD is one of the highest taxes of its kind in the world. It is certainly the highest in Europe. We want to put Scotland in a stronger economic position and improve our international connectivity, and the airlines and airports support the approach.

We will have to revisit our decisions on what we do with the air departure tax from year to year on the basis of a number of factors such as public spending plans, economic opportunities and the evaluation of what the policy is achieving, and decisions will be taken in the light of what other airports and airlines face. We will have to analyse all of that before we set out to Parliament our proposition on the tax rates, and we will then keep that under review. The UK chancellor could change the position on APD every year, and Scotland could look to respond or not, as the case may be.

The Convener: Let me see whether I have got this right. Cabinet secretary, I thought that you told us earlier that this is not really about the competition between Newcastle and Edinburgh, for instance, but is more about Stockholm, Lisbon and Barcelona. If that is the competition that we are talking about, what the chancellor did at the UK Treasury would have less impact on our decisions here. Have I got that wrong?

Derek Mackay: The magic words “block grant adjustment” are often spoken in this committee, and whatever we do is relative to what the UK

Government does in arriving at the outcome of our figures through the block grant adjustment. Liam Kerr's point was specifically about what we would do to respond to the chancellor's position, which will inform our position, and you rightly make the point that this is about competition not only with other UK airports but with international airports, about securing routes to and from Scotland and about sustaining what we have. Nevertheless, we must not forget that this is all relative to the block grant adjustment.

The Convener: I cannot remember whether Neil Bibby still has an outstanding question on passenger issues.

Neil Bibby: I have a brief question, convener. When the cabinet secretary answered Ash Denham's question about what the measure of success would be, he talked about more passengers, flights and operators, but one extra passenger is "more" and one extra flight is "more". Can you be more specific about what the measure of success will be?

Derek Mackay: I do not know whether the committee wants me to break things down to the absolute numbers of passengers and flights that will be sustained.

Neil Bibby: Just give us the rough figures.

Derek Mackay: I have described the measure of success as the contribution of generally more. However, as I have said repeatedly, I think that we will be better informed once we have set out the tax rates that will flow from the Government's economic strategy, which will allow the operators greater certainty about how they can respond. Two operators, in particular, have outlined what the approach will mean in terms of their increasing their presence in Scotland by way of routes and capacity. Once we have outlined our tax proposition, that should inform how the airlines can respond by way of growth.

The Convener: I think that you can take it as read, cabinet secretary, from what you have heard around the table, that the committee will ask you to have an independent economic assessment carried out, because many of the questions are germane to that work being carried out. I am making an assumption, but I do not think that you should wait for our report—I see heads nodding around the table. Rather, you should assume that that request will be in the report. That will begin to answer some of the questions that have been asked around the table.

Derek Mackay: That is executive democracy.

The Convener: That was me applying my executive order. I must watch my haircut in the future.

That concludes this evidence-taking session on ADT. I suspend the meeting to allow a changeover of witnesses.

11:09

Meeting suspended.

11:11

On resuming—

Subordinate Legislation

Scottish Fiscal Commission (Modification of Functions) Regulations 2017 [Draft]

The Convener: Item 2 is consideration of a Scottish statutory instrument relating to the modifications to the Scottish Fiscal Commission remit. Before we come to the motion seeking our approval, we will hear evidence on the order. We are again joined by the Cabinet Secretary for Finance and the Constitution. He is accompanied by John St Clair, senior principal legal officer in the Scottish Government, and Scottish Government policy adviser David Kerrouchi—have I got that right, David?

David Kerrouchi (Scottish Government): Yes.

The Convener: I welcome our witnesses to the meeting and invite the cabinet secretary to make an opening statement.

Derek Mackay: I had hoped that my opening statement could also cover the technical aspect of moving the instrument, but I will take guidance from you on that, convener.

The draft Scottish Fiscal Commission (Modification of Functions) Regulations 2017, laid before Parliament on 27 January, expand the functions of the Scottish Fiscal Commission to reflect the powers that have been devolved through the Scotland Act 2016 and the fiscal framework agreement between the Scottish and United Kingdom Governments. In summary, the functions of the commission are expanded by the addition of a function to prepare forecasts of demand-led social security expenditure and the addition of a requirement that the commission prepare Scottish gross domestic product forecasts, which do not cover the value of oil, gas and other hydrocarbons that are produced in the Scottish sector of the UK continental shelf.

The additional functions will take effect when the Scottish Fiscal Commission Act 2016 commences on 1 April. The 2016 act was passed by the Scottish Parliament on 10 March 2016, prior to the Scotland Act 2016 gaining royal assent. It was therefore not possible for the Scottish Parliament to legislate for the devolved social security forecasting during the bill process.

The commission will also produce forecasts for Scottish onshore GDP. That is important because under the fiscal framework agreement the Scottish Parliament has been given additional resource borrowing powers. Those additional powers are in part to assist in the management of any additional

risks and volatility associated with the further fiscal devolution in the Scotland Act 2016. The powers come into play if onshore Scottish GDP falls below certain trigger points.

As the committee will be aware, last year, I laid before Parliament the Scottish Fiscal Commission Act 2016 (Commencement and Transitory Provision) Regulations 2016, which, among other things, brought the commission into statutory existence for the purpose of ministers consulting with the commission prior to amending its functions. That is a condition of section 8 of the 2016 act. As such, I wrote to Lady Rice, chair of the commission, on 9 November, and the commission responded positively to our draft amendments.

The Convener: If members have no questions for the cabinet secretary, we will move to item 3, which is consideration of the motion. I invite the cabinet secretary to move motion S5M-03911.

Motion moved,

That Finance and Constitution Committee recommends that the Scottish Fiscal Commission (Modification of Functions) Regulations 2017 [draft] be approved.—[*Derek Mackay*]

Motion agreed to.

Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2017 (SSI 2017/23)

The Convener: The next item is consideration of a Scottish statutory instrument that seeks to revise the landfill tax rates and bands for 2017-18. Before we consider the motion on the order, we will have an evidence-taking session. We are joined by the same people as previously.

Cabinet secretary, do you wish to make an opening statement?

11:15

Derek Mackay: I do, convener. Thank you.

The Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2017 specifies the standard rate and lower rate of the Scottish landfill tax, as I set out in the budget. The proposed rates ensure that the tax increases in line with inflation and matches the planned UK landfill tax rates for 2017-18, as provided for in the Finance Act 2015.

In setting those rates, I am acting to avoid any potential for waste tourism through material differences between the tax rates north and south of the border. In addition, I am providing appropriate financial incentives to support the delivery of our ambitious waste and circular-economy targets, including our zero-waste goal that no more than 5 per cent of total waste should go to landfill by 2025.

The Scottish Government forecasts that it will generate revenue of £149 million from the Scottish landfill tax in 2017-18. The Scottish Fiscal Commission has endorsed that full-year forecast as reasonable.

Patrick Harvie: Cabinet secretary, we are considering the order at the last possible moment. As far as I understand, if the committee were not able to reach a view this morning, it would not be possible to bring a motion to the chamber this week and the order would fail to keep to the 28-day cut-off point. Without getting into the reasons why we are in this position in relation to the order—an instrument to which I detect no objection—will you share your thoughts on how we can avoid such a situation happening again? How can we ensure that, in future, we avoid more delicate and more dangerous last-minute processes than this on the range of tax powers that the Scottish Government now has, some of which are more contentious than landfill tax?

Derek Mackay: I am happy to give that point further consideration. The rates will be set for the year but the budget review group will help us to navigate our way through some of the process issues. It is not the Government's intention for you to feel that way about engagement on the matter, because there are some positives in the order. One is how it aligns with our environmental strategy. A further positive is the credit rate for the Scottish landfill communities fund, which is more generous than the UK equivalent.

The point is worthy of further consideration. I am happy to give thought to how we can ensure that timetabling is more meaningful in future. The budget review group will examine all those matters for the total budget process.

The Convener: If there are no further questions, we move to consideration of the motion on the order.

Motion moved,

That the Finance and Constitution Committee recommends that the Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2017 be approved.—[*Derek Mackay*]

Motion agreed to.

The Convener: We will produce a short report on the instruments that we have considered, setting out our decisions.

That is the last item on the agenda. I close the meeting.

Meeting closed at 11:18.

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