

## SCOTLAND ACT 2012

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### EXPLANATORY NOTES

#### COMMENTARY ON SECTIONS (AND SCHEDULES)

#### **Part 3: Finance**

#### ***Section 24: Amendments relating to the Commissioners for Revenue and Customs***

95. This section amends existing legislation to enable Her Majesty's Revenue and Customs (HMRC) to disclose information to Scottish Ministers regarding devolved taxes; to make such information confidential and subject to onward disclosure controls; and to ensure that such devolved taxes are neither a function nor an "assigned matter" of HMRC.
96. HMRC has a statutory duty of confidentiality which sets out the circumstances in which lawful disclosure of information held by HMRC can be made. Disclosure may only occur in a limited number of specific circumstances. Devolution of some areas of taxation to the Scottish Government means that amendments are needed to the Commissioners for Revenue and Customs Act 2005 to provide HMRC with the ability to disclose information regarding devolved taxes. Further amendments are required to ensure that devolved taxes do not become a statutory function of HMRC but remain instead a matter for the Scottish Government.
97. This section sets out amendments to the Commissioners for Revenue and Customs Act 2005 and the Customs and Excise Management Act 1979 to provide for the role of HMRC in relation to devolved taxes.
98. *Subsections (2) and (3)* amend HMRC's statutory duty of confidentiality at section 18 of the Commissioners for Revenue and Customs Act 2005 so that HMRC may disclose revenue and customs information to Scottish Ministers in connection with devolved taxes.
99. *Subsection (4)* introduces an onward disclosure control forbidding further disclosure of such information without the consent of the Commissioners.
100. *Subsection (5)* makes it a criminal offence for the Scottish Ministers or any other person to unlawfully disclose information in breach of the control added by *subsection (4)*.
101. *Subsection (6) and (7)* provide that the Commissioners and officers of HMRC shall not have functions or "assigned matters" conferred on them in relation to the devolved taxes. This ensures that the Scottish Government remain wholly responsible for devolved taxes.