EXPLANATORY MEMORANDUM TO

THE SCOTLAND ACT 1998 (DESIGNATION OF RECEIPTS) (AMENDMENT) ORDER 2017

2017 No. 1258

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the instrument is to amend the Scotland Act 1998 (Designation of Receipts Order) 2009, which specifies which receipts Scottish Ministers should pay to the Secretary of State for Scotland. The amendment will remove fines, forfeitures and fixed penalties from the specified designated receipts, which will enable Scottish Ministers to retain this income in the Scottish Consolidated Fund from the financial year 2017-18 onwards.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 64(5) of the Scotland Act 1998 provides that HM Treasury may designate certain receipts payable into the Scottish Consolidated Fund, which are then to be paid to the Secretary of State in accordance with section 64(6) of that Act.

5. Extent and Territorial Application

5.1 The extent of this instrument is Scotland.

5.2 The territorial application of this instrument is Scotland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 HM Treasury is amending the Scotland Act 1998 (Designation of Receipts Order) S.I. 2009/537, so that fines, forfeitures and fixed penalties collected in Scottish courts will

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no longer be specified designated receipts that Scottish Ministers are required to pay to the Secretary of State for Scotland. This will enable Scottish Ministers to retain this income in the Scottish Consolidated Fund. This change was recommended by the Smith Commission agreement in 2015, as part of the devolution of further powers to the Scottish Parliament. The UK and Scottish Governments subsequently agreed in the Scottish Government's new fiscal framework that the Scottish Government would be able to retain this income from 2017-18 onwards. HM Treasury is therefore amending the Designation of Receipts Order to provide for this.

8. Consultation outcome

8.1 The Order has been shared with the Scottish Government, who were content that it provides for the agreement set out in the Smith Commission, and the Scottish Government's fiscal framework.

9. Guidance

9.1 None.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 None.

13. Contact

13.1 Sarah Schofield at HM Treasury (telephone: 0207 270 1730 or email: sarah.schofield@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.