



Scotland Office  
and  
Office of the Advocate General for Scotland

Annual Report  
2008





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and  
Office of the Advocate General  
for Scotland

Annual Report 2008

Presented to Parliament by the Secretary of State for Scotland  
by Command of Her Majesty

May 2008

This document (Cm 7403) is part of a series of three documents that make up the Departmental Report for the Ministry of Justice 2007-08. The other two documents are the 2007-08 Departmental Report of the Ministry of Justice (Cm 7397) and the 2007-08 Annual Report of the Wales Office (Cm 7404). It is part of a series of departmental reports which, along with the Main Estimates, the document Public Expenditure: Statistical Analyses 2008, and the Supplementary Budgetary Information 2008-09, present the Government's expenditure plans for 2008-09.

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## Foreword by the Secretary of State for Scotland

It is an honour to have been appointed as Secretary of State for Scotland in June 2007, and to represent Scotland in the Cabinet, working with UK Government Departments to ensure that Scotland's interests are represented and reflected in the development of policy.

During the past year, the Scotland Office and the Office of the Advocate General for Scotland have been involved in a range of key government issues. This document provides a report on the work undertaken during the past year, and objectives for the year ahead.

As the guardian of the devolution settlement for Scotland, the Scotland Office continues to work closely with the Scottish Executive. Although the elections in May resulted in a minority administration of a different political complexion, officials and Ministers from the Scotland Office work closely and constructively with counterparts in the Scottish Executive on a range of issues. Illustrative of this co-operative working is the Scotland Office's oversight of the convention that has enabled the Government, with the agreement of the Scottish Executive, to introduce legislation through the UK Parliament on devolved matters on nine separate occasions since May 2007.

The Scotland Office also takes forward a programme of secondary legislation (Orders) under the Scotland Act 1998. We are currently working closely with the Scottish Executive on several Orders that will facilitate flagship Scottish Executive policies, including legislation to help deliver the 2014 Commonwealth Games.

I have taken opportunities throughout the year, as has Minister of State David Cairns, to get around Scotland and hear the views of the public, Scottish businesses and representative stakeholder bodies, to inform our approach. The sharing of the insight and experience of many groups and individuals across a range of issues has been of great value.

The Scotland Office and the Office of the Advocate General for Scotland are part of the Ministry of Justice for a number of personnel, finance and management matters. Scotland Office staff continue to report to Scotland Office Ministers, and

they continue to work towards ensuring that Scotland's interests are represented at the heart of government.

In my role as Secretary of State, I am delighted to reiterate my commitment to representing Scotland at the highest level in the year ahead.



A handwritten signature in black ink, reading "Des Browne", is written above a single horizontal line that extends to the left and right of the signature.

**The Rt Hon Des Browne MP**  
**Secretary of State for Scotland**

# Chapter 1: Introduction

## The Scotland Office and Office of the Advocate General for Scotland

**1.1** The Scotland Office<sup>1</sup> and Office of the Advocate General for Scotland<sup>2</sup> report to the Secretary of State for Scotland and the Advocate General for Scotland respectively. This Annual Report covers the work of both Offices for the year.

## The Devolution Settlement

**1.2** The primary role of the Secretary of State for Scotland is to promote the devolution settlement and to act as guardian of it. He promotes partnership between the UK Government and the Scottish Executive.

**1.3** The Secretary of State also continues to represent Scottish interests in reserved matters within the UK Government, advising colleagues about any distinctive Scottish aspects that arise for reasons other than the impact on devolved matters and supporting them in presenting Government policies in Scotland.

**1.4** The Scotland Act 1998 provides the legislative basis for devolution in Scotland. The Scotland Act identifies those matters that are reserved to the UK Parliament. All other matters not listed in Schedule 5 to the Scotland Act are considered to be within the devolved competence of the Scottish Parliament. Whilst the UK Parliament remains sovereign - retaining the power to legislate on any matter affecting any part of the UK - the Government respects the devolution settlement and has indicated that it will not normally legislate at Westminster in relation to devolved matters without the consent of the Scottish Parliament. This is known as the Sewel Convention<sup>3</sup>.

**1.5** Reserved matters include:

- UK Single Market
- Energy Regulation, UK and International Transport
- Immigration and Nationality

<sup>1</sup> The Scotland Office was established on 1 July 1999, following devolution, as part of the UK Government.

<sup>2</sup> The Office of the Advocate General was established on 20 May 1999.

<sup>3</sup> The Scottish Parliament's consent is sought through consideration of a motion laid before the Parliament. This was commonly known as a "Sewel Motion" but the correct terminology is a "Legislative Consent Motion": see chapter 9B of the Standing Orders of the Scottish Parliament.



- Social Security
- Taxation and Economic Management
- Foreign Affairs including European Union negotiations
- Defence
- National Security
- The Constitution

## Secretary of State and Minister of State

**1.6** The Secretary of State for Scotland, the Rt Hon Des Browne MP, was appointed on 28 June 2007. The Minister of State, David Cairns MP, who was initially appointed to the Scotland Office on 10 May 2005 as Parliamentary Under-Secretary of State, assists him. On 29 June 2007, David Cairns was made Minister of State at the Scotland Office.



Rt Hon Des Browne, MP



Minister of State,  
David Cairns, MP

- 1.7** The Secretary of State has overall Ministerial responsibility for the operation of the Scotland Office and represents Scottish interests at Cabinet. He also has certain executive functions, notably in relation to the financial transactions between the Government and the Scottish Executive and in relation to Parliamentary elections.
- 1.8** The Minister of State is responsible for maintaining close working relations with Scottish Ministers. This includes preserving the place of Scotland in the Union; representing the UK Government in relation to a wide variety of UK Government interests in Scotland; and ensuring that Scottish interests are properly understood and represented across Whitehall. He also deputises for the Secretary of State.
- 1.9** The Secretary of State and the Minister of State between them are members of 22 Cabinet Committees and Sub-Committees. The interests of Scotland are represented through Scotland Office Ministerial involvement in Cabinet discussions on reserved matters.

- 1.10** Scotland Office Ministers also make Orders under the Scotland Act. The settlement is sufficiently flexible to enable changes to be made to reflect legislation enacted by both the UK and Scottish Parliaments. This is delivered through secondary legislation under the Scotland Act.
- 1.11** The (then) Secretary of State appointed Tom Greatrex as his Special Adviser on 26 February 2007; the present Secretary of State confirmed this on 29 June 2007. In addition, John McTernan was appointed as Special Adviser in the Scotland Office on 20 August 2007.

### **Advocate General for Scotland**

**1.12** The Advocate General for Scotland, Lord Davidson of Glen Clova QC, was appointed on 21 March 2006.

**1.13** The Advocate General for Scotland is one of the UK Law Officers along with the Attorney General and the Solicitor General for England and Wales. He is the senior legal advisor to the UK Government on Scots Law. The Law Officers provide joint legal advice to the UK Government on matters of domestic and European law.



Lord Davidson of Glen Clova QC

- 1.14** The Advocate General also has statutory functions under the Scotland Act 1998. He is responsible to Parliament for the work of his Legal Secretariat and for overseeing the provision by the Office of the Solicitor to the Advocate General of litigation and advisory services in Scotland to UK Departments and Agencies.
- 1.15** Since February 2008, the Advocate General has been the Scotland Office spokesperson in the House of Lords.

# Chapter 2: Scotland Office: Organisation, Activities in 2007-08 and Plans for 2008-09

## Organisation

- 2.1** The Office is based in Dover House in Whitehall, London and Melville Crescent in Edinburgh.
- 2.2** For a range of corporate services, for example, staffing, finance and office services, the Scotland Office and the Office of the Advocate General are part of the Ministry of Justice (MoJ). This does not affect the separate accountability of the Offices to their respective Ministers.

## Staffing

- 2.3** The Scotland Office does not directly employ any staff; staff are seconded by other Government Departments, mainly the Scottish Executive and the MoJ. The number of staff in post in the Scotland Office at 31 March 2008 was 55; Figure 3 shows the breakdown.

**Figure 3: Number of Staff in the Scotland Office at 31 March 2008 by Area of Work**

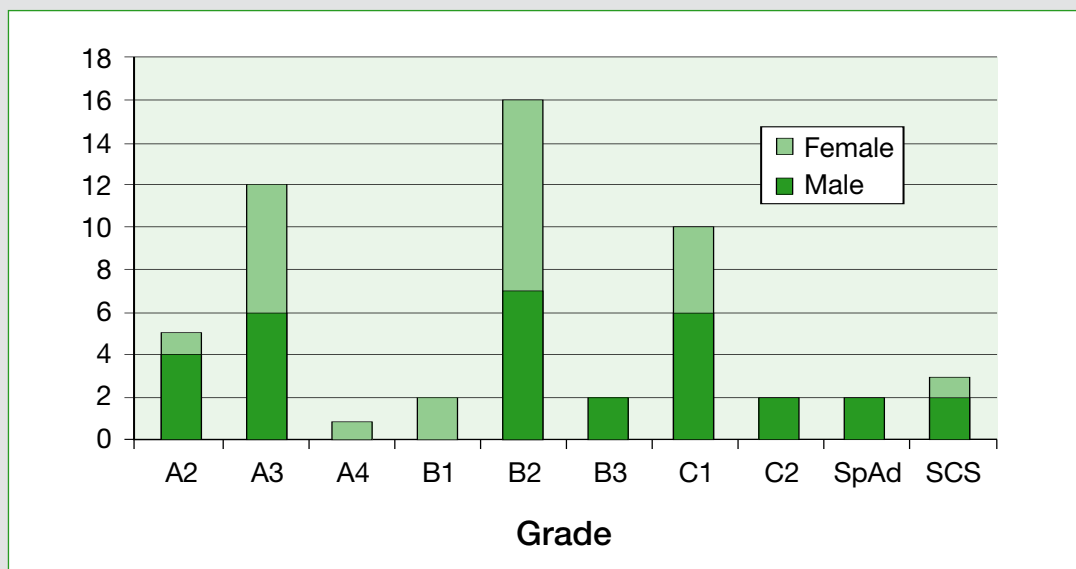
Director's Office	3
Special Advisers	2
Scotland Office, London	20
<i>of which Ministerial Private Office</i>	6
Scotland Office, Edinburgh	30
<i>of which Press Office</i>	2
<b>Total</b>	55

- 2.4** Annex 9 sets out the staffing of the Scotland Office since 2004-05, and the Office's plans up to 2010-11.

## Women

**2.5** Women make up 44 % of staff in the Scotland Office; the figure below shows the number of women in each grade.

**Figure 4: Gender in the Scotland Office at 31 March 2008**



## Senior Civil Service Salaries

**2.6** The salaries of Senior Civil Servants in the Scotland Office are;

**Figure 5: Senior Civil Service Salaries in the Scotland Office as at 31 March 2008**

Annual Salary	Number of Staff
Under £59,999	-
£60,000 - £64,999	1
£65,000 - £69,999	-
£70,000 - £74,999	1
£75,000 - £79,999	-
£80,000 - £84,999	-
£85,000 - £89,999	-
£90,000 - £94,999	1

## Activities in 2007-08

**2.7** The Office's objectives for 2007-08, and progress in achieving them, were:

**Objective 1:** To ensure that Scotland's interests in relation to reserved areas are known and represented within the UK Government

**2.8** The Scotland Office's task is to ensure good working relations between Whitehall and the Scottish Executive and to ensure that Scottish and devolved elements are taken into account in the development and management of policy and legislation. Most of this work is carried out behind the scenes, including in Cabinet and in Cabinet Sub-Committees on which Scotland Office Ministers are represented as necessary. In total, Scotland Office Ministers are represented on 22 Committees to ensure that the UK Government appropriately reflects Scottish interests in decisions. Ministers actively pursue a programme of meetings and visits to ensure that the UK Government is aware of the Scottish needs; to this end, Ministers undertook around 150 engagements across Scotland.

**2.9** In Parliament, Ministers represented the UK Government's position on a range of issues relating to the Scottish devolution settlement and appeared before the Scottish Affairs Select Committee.

**2.10** Ministers participated in conferences and seminars relating to devolution and promoted devolution in Ministerial speeches and articles. In addition, Ministers hosted (or supported) a number of events at Dover House, London and Melville Crescent, Edinburgh designed to promote Scottish interests (see para 2.15).

**2.11** Scotland Office staff keep abreast of the range of activities across Whitehall to ensure that our Ministers can contribute effectively. A significant amount of time is spent providing advice to Ministers as part of collective processes with Cabinet.

**2.12** Similarly, as part of Scotland Office Ministers wider accountability to the UK Parliament, a number of Parliamentary Questions were tabled in 2007-08. The figures show an increase of 86% over last year in the number of ordinary written questions that have been asked.

**2.13** The Office also answered 1418 pieces of written correspondence; this activity, as a process of accountability to the public, is an important part of our work.

	2006-07			2007-08		
	Ordinary Written	Nominated/Named Day	Oral	Ordinary Written	Nominated/Named Day	Oral
House of Commons	188 <sup>4</sup>	17	135 <sup>5</sup>	350 <sup>4</sup>	36	105 <sup>5</sup>
House of Lords	6	N/A	0	11	N/A	1
Total	194	17	135	361	36	106

## Security Planning and Policy

**2.14** The Office provided support to Ministers in a number of policy areas that either are reserved or are on the interface between reserved and devolved matters to ensure that Scotland's interests were fully represented in the development of policy across Whitehall and that the devolution settlement was respected. These included national security, civil contingencies, defence and international relations. In the civil contingencies area, the Office has worked closely with the Scottish Executive on counter terrorism, particularly in the summer of 2007, and on animal health matters, during the avian influenza, foot and mouth disease and bluetongue virus outbreaks.

## Dover House Activities

**2.15** Dover House needs to be maintained and managed effectively. This includes delivery of a varied programme of events to enable Scottish interest groups to engage with Ministers and Scottish MPs. The programme included annual events, such as a reception on the day of HM The Queen's Birthday Parade (Trooping the Colour), a lunch for the Moderator of the General Assembly of the Church of Scotland and the Earl Haig Fund's London launch of the Scottish Poppy Appeal. Other events were held at the request of, among others, Society of British Aerospace Companies Scotland, Scottish Financial Enterprise, CBI Scotland, Mercy Corps and the Scotch Whisky Association. These events were hosted by Scotland Office Ministers and funded by the organisations involved. These events continue to be popular with MPs of all parties with relevant Scottish constituencies taking the opportunity to engage with important stakeholders and groups in Scotland.

## Elections

**2.16** Following the elections in May 2007, the Scotland Office assisted the Scottish Elections Review team, headed by Ron Gould CM, with their independent review of the 2007 Scottish Parliamentary elections. Following the publication of the Gould report, a consultation on taking forward his recommendations was launched by the Secretary of State. New legislation to tackle electoral

<sup>4</sup> Includes ordinary written questions that were withdrawn after they were tabled and ones that were transferred to other Government Departments.

<sup>5</sup> Oral questions that were tabled, but not all would have been reached during oral questions sessions. Those not answered orally received a written response but these responses are included here and not in the figures for ordinary written questions.

fraud by requiring postal voters to provide their personal identifiers was brought into force for Scottish and UK Parliamentary elections.

## Representing Scottish Interests

- 2.17** In order to represent Scottish interests, Scotland Office Ministers hold regular events and meetings with relevant Scottish representative groups. The Office has supported the delivery of a roundtable meeting on child poverty in Scotland, hosted by the Minister of State and attended by Stephen Timms, the Minister of State for Employment and Welfare Reform at the Department of Work and Pensions. The meeting enabled representatives from key Scottish charities to engage with Ministers, and Scottish MPs, on the delivery of the Government's target of halving child poverty by 2010, and eradicating it completely by 2020.
- 2.18** The Office was responsible for producing the Government's response to the Scottish Affairs Committee's two-volume report on their inquiry into Poverty in Scotland, drawing on contributions from various Departments, including the Department for Work and Pensions and HM Treasury.
- 2.19** Staff in the Office supported the Minister of State in meetings with equality representatives. This has included meetings with the Equalities Co-ordinating Group, and with representatives from the Scotland office of the Equality and Human Rights Commission. This has helped facilitate feedback from Scottish stakeholders in relation to the development and operation of reserved legislation on equalities within the Scottish context.
- 2.20** The Scotland Office continued to link with the Department for Culture Media and Sport, Gaelic Media Services and the Scottish Executive in the planning for the introduction of the dedicated digital service for Gaelic medium broadcasting. The Secretary of State has a statutory role in approval of appointments to the Gaelic Media Service Board.
- 2.21** The Office supported both the Secretary of State and Minister of State in a series of meetings and engagements with key players in the industrial and economic sectors in Scotland, including representative bodies and visits to a number of significant businesses across many sectors, including manufacturing, financial services and energy. This contributed to Scotland Office Ministers' representing both Scottish interests at the UK level, but also in helping to represent the continuing role of the UK Government in Scotland. For example, the Office organised the annual pre-budget report seminar hosted in our Edinburgh office by the Secretary of State, and addressed by Dave Ramsden, Chief Macroeconomist at HM Treasury. In addition to this, the Office organised an Enterprise workshop, which was jointly hosted by the Minister of State for Scotland, David Cairns, and the Minister of State for Employment and Welfare Reform, Stephen Timms.



- 2.22** The Office made arrangements for the appointment of a new Commissioner and a new Secretary to the Boundary Commission for Scotland.
- 2.23** This year has seen a range of developments in asylum and immigration policy. The Scotland Office has worked with the Home Office to ensure that these policies are appropriately designed to meet any particular Scottish circumstances. The publication of proposals to introduce a new points based system and the Green Paper entitled *The Path to Citizenship: next steps in reforming the immigration system* marked the end of an extensive period of policy development and engagement with stakeholders. The Scotland Office has played an active role in brokering effective relationships between the Border and Immigration Agency and the Scottish Executive.
- 2.24** Other developments this year include the ongoing preparation for the Olympic Games in 2012, and maximising the opportunities that the event will bring for the whole of the UK. The Scotland Office has been delighted to be involved in putting in place the necessary legislative arrangements to secure the Commonwealth Games in Glasgow in 2014. The Office looks forward to making any contribution that it can to make both of these major sporting events a success.

**Objective 2:** To fulfil all requirements in relation to UK Government and Parliament activities concerning Scotland and in relation to constitutional functions under the Scotland Act

- 2.25** The identification and resolution of devolution issues in the UK legislative programme and the co-ordination and delivery of subordinate legislation has continued to be a key part of the Scotland Office's business in 2007-08.
- 2.26** The Office had extensive involvement in the development of Government Bills, offering advice and guidance to the main Whitehall Departments, particularly on those Bills triggering the Sewel Convention (see para 1.4) :- Climate Change Bill, Criminal Justice and Immigration Bill, Dormant Bank and Building Society Accounts Bill, Education and Skills Bill, Health and Social Care Bill, Pensions Bill, Housing and Regeneration Bill and Statute Law (Repeals) Bill. Scottish Ministers have sought, or are in the process of seeking, Scottish Parliamentary consent for the provisions triggering the Convention in each of these Bills.
- 2.27** The Office has encouraged Departmental Bill teams to embed the recommendations of the Scottish Affairs Select Committee following their Inquiry into the Sewel Convention in 2006. This has led to improvements in the Territorial Extent section of Explanatory Notes to Bills, which provides a clearer indication of the application of each Bill across the United Kingdom.



## Statutory Instruments

- 2.28** A list of subordinate legislation is provided at Annex 6.
- 2.29** The Scotland Office delivered 8 pieces of subordinate legislation; these covered a wide variety of policy matters. The successful delivery of this legislation is part of the Scotland Office's ongoing management of the devolution settlement and reflects the Government's focus on working with Scottish Ministers to ensure that the devolution settlement continues to deliver for the people of Scotland. The Scotland Act Orders made during the last reporting year covered a wide variety of policy matters.
- 2.30** The power at section 104 of the Scotland Act 1998 allows for necessary or expedient amendments to be made to the law in consequence of Acts of the Scottish Parliament or subordinate legislation made under those Acts. The power was used to ensure that the new Justice of the Peace Courts in Scotland (and District Courts prior to their abolition) are able to impose obligatory endorsements of driving licences and impose disqualification from driving.
- 2.31** The power at section 63 of the Scotland Act was used to transfer to Scottish Ministers certain functions concerning the Regulation of Investigatory Powers Act 2000. This allowed Scottish Ministers to issue warrants to the Serious Organised Crime Agency and the Scottish Crime and Drugs Enforcement Agency to seek assistance from other agencies with the interception of communications outside the UK and to seek disclosure of material thus intercepted.
- 2.32** The power at section 89 of the Scotland Act was used to make special provisions concerning a cross-border public authority – the Traffic Commissioner for the Scottish Traffic Area. An Order was made under section 89 allowing Scottish Ministers to make regulations relating to that Traffic Commissioner and exercise powers in relation to appeals relating to traffic regulation conditions.
- 2.33** The power at section 12 of the Scotland Act was used to make provision for scrutiny by the Electoral Commission of Scottish Parliament ballot papers, as requested by Ron Gould CM, the independent reviewer of the 2007 Scottish elections. It was also used to make provision for the collection and checking of personal identifiers for absent voters. (see para 2.16)
- 2.34** Further information, including the Explanatory Memorandum for each Instrument, is available on the website of the Office of Public Sector Information.<sup>6</sup>

<sup>6</sup> [www.opsi.gov.uk](http://www.opsi.gov.uk)

## Other Parliamentary Matters

**2.35** The Office continued to perform a liaison function in relation to the Parliamentary Select Committees. Staff ensured that memoranda and Government responses to Scottish Affairs Select Committee reports were submitted by the deadline so that the Committee could progress its inquiries in line with its timetable. The 2007-08 session included inquiries into:

- Effects of Tax Increases on the Oil Industry
- Experience of the Scottish Elections
- Poverty in Scotland
- Skills and employment for the defence industry in Scotland

**2.36** The Committee also took evidence from Ministers and the (then) Head of the Office on the Annual Report for 2007.

**2.37** The Secretary of State for Scotland and the Director of the Scotland Office also gave evidence to the Justice Select Committee's inquiry on devolution.

**2.38** The Scotland Office has also been working closely with the Scottish Executive and the Department for Transport in relation to Aberdeen City Council's petition for private legislation in the UK Parliament. Aberdeen City Council is seeking authorisation to hold a motor rally annually on public roads.

**Objective 3:** To handle all financial matters timeously and with propriety – including payments to the Scottish Consolidated Fund.

**2.39** Government funding for the Scottish Executive's budget is prescribed by the United Kingdom Parliament. The Secretary of State makes the grant each year to the Scottish Consolidated Fund to meet expenditure by the Scottish Parliament and the Scottish Executive. Out of a Total Managed Expenditure of the Fund of £33.032 billion, the grant made in 2007-08 was £24.617 billion. (see Annex 4)

## Finance and Administration

**2.40** The Office engaged in a programme of improvements to the processing of election accounts and made significant efforts to clear the backlog of accounts in consultation with local authorities. All outstanding accounts – that is, accounts other than the Scottish Parliament election 2007 – have now been settled. In addition, the Finance Section processed 2123 invoices on behalf of the Scotland Office and Office of the Advocate General. (see para 5.1 for information on the Offices' payment performance)

**2.41** During the year, staff engaged with contractors on major roof work for Dover House. Staff also ensured that the relevant health and safety regimes were in place in Melville Crescent and Dover House.

## **Plans for 2008-09**

### **Objectives for 2008-09**

**2.42** The Office has adopted the following objectives for 2008-09:

- to fulfil all requirements in relation to UK Government and Parliament activities concerning Scotland and in relation to constitutional functions under the Scotland Act
- to ensure that Scotland's interests in relation to reserved areas are known and represented within the UK Government
- to promote UK Government interests in Scotland
- to respond to the Gould review on the Scottish elections 2007 and implement those recommendations necessary for the effective administration of future Scottish Parliament elections
- to handle all financial matters timeously and with propriety – including payments to the Scottish Consolidated Fund

**2.43** The Office will advise Ministers on a wide range of issues that affect home, social, business, energy and economic matters that are mainly within the reserved policy sphere but have an impact on Scotland.

**2.44** The Office is responsible for policy and legislation for the effective conduct of the Scottish Parliament elections. A key task this year is to finalise the Government's response to the independent review by Ron Gould CM of the 2007 Scottish elections and take forward the action necessary to implement those recommendations that the Government accepts. The Office will also ensure that Scotland's interests in relation to the policy and planning for the 2009 European elections are represented within the UK Government.

**2.45** The Office will put in place all the necessary arrangements for Assistant Commissioner appointments to the Boundary Commission for Scotland for the review of Scottish Parliament constituency boundaries currently taking place. The Scotland Office will continue to act as the sponsorship body for the Boundary Commission.

**2.46** Ministers and officials will maintain close working links with key representative bodies in the industrial and commercial world in Scotland, including maintaining Scotland Office participation in groups considering the impact of regulation in Scotland and the wider business environment. The

Scotland Office will continue to ensure key Scottish stakeholders are connected to the UK macro economic and fiscal policy framework.

**2.47** The Scotland Office will continue to participate in work arising from the UK Energy review of 2006. The boundary between reserved and devolved competencies is complex in many aspects of energy policy, whilst Scottish interests have a significant bearing on UK policy.

**2.48** Given that the boundary between reserved and devolved competencies is complex in many aspects of energy and environment policy, the Scotland Office will continue to play a key role as an intermediary between other Government Departments and the Scottish Executive in these areas. Much of this work over the next year will relate to the progress of the Climate Change, Energy and Planning Bills through Parliament and on further proposed legislation such as a Marine Bill. Electricity transmission access and charges and actions necessary to meet the various Scottish, UK and EU energy targets are likely to come under closer scrutiny. The Scotland Office will also maintain its commitment to the UK PILOT initiative – the joint industry/government group forum seeking to maximise exploitation of oil and gas reserves in the UK Continental Shelf.

## **Finance and Administration**

**2.49** The Office will strive to pay invoices received as quickly as possible and, at the latest, within 30 days; and will continue to seek effective and efficient management of the estate. During the year, the Offices will be involved with the outcome of the MoJ's recognition as an Investor in People (IIP); ensuring that where necessary advances to Returning Officers are made expeditiously; and, wherever possible, arranging for the reimbursement of expenses to Returning Officers quickly after accounts are submitted.

## **Constitutional Policy**

**2.50** The Office will continue to ensure the principles underpinning Scotland's devolution settlement are properly represented in the UK and Scottish legislative programmes and the development of policy. It will support, as necessary, the work of the Scottish Parliament Commission.

**2.51** The Scotland Office is responsible for providing advice and support to both Bill teams and policy counterparts in Scotland during the preparation of legislation. The identification and resolution of devolution issues in the UK legislative programme in line with the Government's commitments under the Sewel Convention (see para 1.4) remains a high priority for the Office. This will include a cross Government seminar on the Convention for UK Bill teams where the Office will continue to bed down the recommendations of the Scottish Affairs Select Committee following their Inquiry into the Convention.

**2.52** The co-ordination and delivery of subordinate legislation under the Scotland Act 1998 continues to be a key part of our business and it is expected that demand will remain steady throughout the reporting year (see Annex 6 for information on instruments made in 2007-08). The Office is working with the Scottish Executive on a number of proposals for Scotland Act Orders for the coming year. The provision of advice and guidance to Whitehall Departments on the Scotland Act will also continue, as will our maintenance of the Scotland Office's interest in the administrative arrangements for devolution. (see the Memorandum of Understanding and Devolution Guidance Notes)<sup>7</sup>

### **Security Planning and Policy**

**2.53** The Office will continue to fulfil its important responsibilities in relation to national security matters and civil contingency planning, liaising with the Scottish Executive and facilitating cross-border relations as necessary.

### **Parliamentary Matters**

**2.54** The Scotland Office will continue to assist the Scottish Affairs Select Committee with its inquiries, providing evidence and co-ordinating the Government's response to the Select Committee's reports.

**2.55** The Scotland Office will also continue to enable the Secretary of State to perform his function in relation to private legislation in the UK Parliament.

### **Dover House Activities**

**2.56** The Office will continue to manage Dover House, the Scotland Office headquarters building in Whitehall, both as office accommodation for Ministers and officials, and as a venue for events that enable Scottish interests to be effectively promoted with Ministers and Scottish MPs.

<sup>7</sup> [http://www.justice.gov.uk/docs/odpm\\_dev\\_600629.pdf](http://www.justice.gov.uk/docs/odpm_dev_600629.pdf); <http://www.justice.gov.uk/guidance/devolutionguidancenotes.htm>

# Chapter 3: Office of the Advocate General for Scotland: Organisation, Activities in 2007-08 and Plans for 2008-09

## Organisation

**3.1** The Office of the Advocate General for Scotland comprises the Office of the Solicitor to the Advocate General and the Legal Secretariat to the Advocate General, which also includes the Ministerial Private Office.

## Office of the Solicitor to the Advocate General (OSAG)

**3.2** The primary functions of OSAG are:

- To provide Scots Law advice to UK Government Departments
- To act for UK Ministers and Departments in court cases in Scotland as well as considering all court cases involving disputes about devolved legislative or executive competence
- To provide effective support to the Advocate General in the performance of his statutory functions under the Scotland Act 1998 and in relation to the Human Rights Act

**3.3** OSAG was established in 1999 and provides legal advice in relation to all aspects of Scots Law, including the instruction of legislation in the UK Parliament that extends to Scotland.

**3.4** The Office is split into three divisions:-

- **Division A** provides legal services, including litigation, legislation and advisory work, to the Department for Work and Pensions, the Home Office, the Foreign and Commonwealth Office, the Department for Environment, Food and Rural Affairs in relation to animal health and welfare matters, the Ministry of Justice, the Scotland Office and certain other Whitehall Departments.
- **Division B** provides legal services, including legislation and advisory work, to a wide range of Whitehall Departments, including the Cabinet Office, the Department for Transport, the Department for International Development, the Department for Environment, Food and Rural Affairs, the Department for Business, Enterprise and Regulatory Reform, HM

Treasury, the Department for Communities and Local Government, the Department for Innovation, Universities and Skills, the Department for Children, Schools and Families and the Scotland Office in respect of Orders made under the Scotland Act. Division B also reports to the Advocate General on matters relating to the exercise of his functions under the Scotland Act.

- **Division C** provides litigation and advisory services in respect of devolution issues arising in the Courts and provides litigation services for Departments not served by Division A, including the Office of Fair Trading.

## Legal Secretariat to the Advocate General

**3.5** The primary functions of the Legal Secretariat are:

- To support to the Advocate General in his capacity as a UK Law Officer, including the exercise of statutory functions under the Scotland Act
- To support the Advocate General's Ministerial responsibilities, including supporting him as a member of Cabinet Committees and as a Member of the House of Lords
- To liaise effectively with OSAG and other Whitehall Departments, where appropriate, to support the Advocate General's functions

**3.6** In his work as a UK Law Officer, the Advocate General works closely with the Attorney General and the Solicitor General for England and Wales. Many of the problems referred to the Law Officers by UK Government Departments relate to Great Britain, or to the United Kingdom as a whole. There are strong working relations between the Legal Secretariat and the Attorney General's Office. The Advocate General also advises on the law as it applies in Scotland.

**3.7** The Legal Secretary oversees the work of the Secretariat, which is comprised of a small team of lawyers, as well as the Ministerial Private Office. The Private Office provides direct secretarial support to the Minister, including handling Parliamentary business and managing Ministerial correspondence.

## Staffing

**3.8** Like the Scotland Office, the Office of the Advocate General does not directly employ any staff; staff are seconded by the Scottish Executive, MoJ or Crown Office. The number of staff in post in the Office on 31 March 2008 was 36; Figure 6 shows the breakdown.

**Figure 6: Number of staff in the Office of the Advocate General at 31 March 2008**

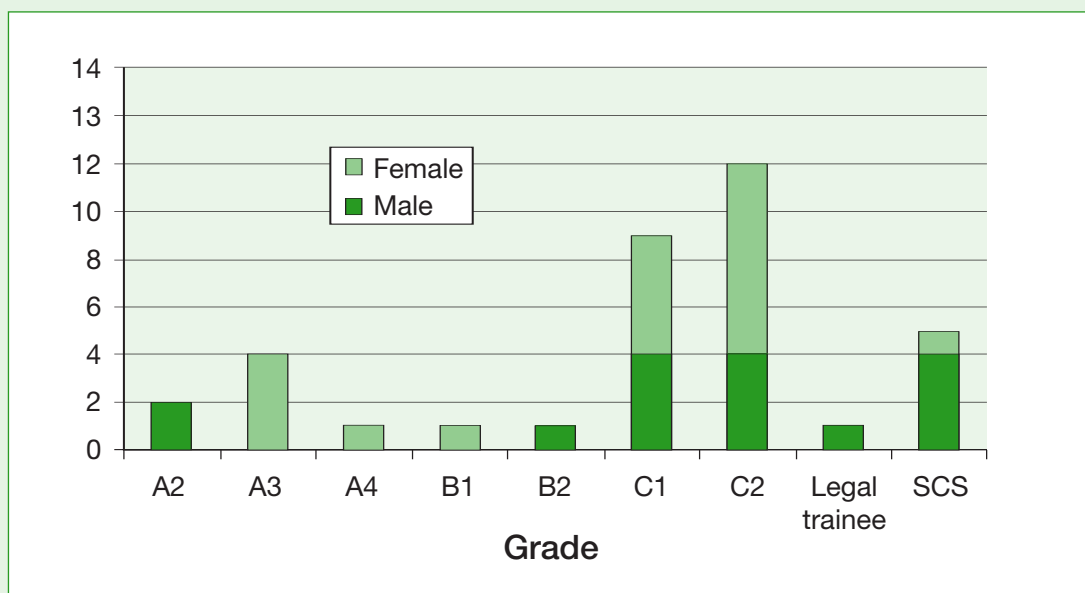
Ministerial Private Office	2
Legal Secretariat to the Advocate General	4
Office of the Solicitor to the Advocate General	30
<b>Total</b>	<b>36</b>

**3.9** Annex 9 sets out the staffing of the Office since 2004-05, and the Office's plans up to 2010-11.

### Women

**3.10** Women make up 57% of staff in the Office of the Advocate General; the figure below shows the numbers of women in each grade.

**Figure 7: Gender in the Office of the Advocate General at 31 March 2008**





## Senior Civil Service Salaries

**3.11** The salaries of Senior Civil Servants in the Office of the Advocate General are;

**Figure 8: Senior Civil Service Salaries in the Office of the Advocate General as at 31 March 2008**

Annual Salary	Number of Staff
Under £59,999	-
£60,000 - £64,999	1
£65,000 - £69,999	-
£70,000 - £74,999	2
£75,000 - £79,999	1
£80,000 - £84,999	-
£85,000 -£89,999	1

## Premises

**3.12** The Legal Secretariat, including the Ministerial Private Office, is located at the Advocate General's headquarters in Dover House, Whitehall. They also share accommodation with the Scotland Office at Melville Crescent, Edinburgh. OSAG is based at Victoria Quay in Leith, Edinburgh.

## Activities in 2007-08

**Objective:** Providing legal advice and services relating to Scots Law and the Scottish devolution settlement to UK Government Departments and supporting the Advocate General for Scotland in his statutory functions under the Scotland Act and in relation to his functions as a UK Law Officer

**3.13** During 2007-08, the Office of the Solicitor to the Advocate General provided legal services to a wide range of UK Government Departments, including general legal advice, work on primary and subordinate legislation and civil litigation. During that period, the Legal Secretariat provided the Advocate General with support in the performance of his functions as a UK Law Officer.

## General Legal Advice

**3.14** The Office's range of legal services includes the provision of general legal advice on Scots Law and advising UK Departments and Agencies on the Scots Law aspects of the operation of the reserved law for which they are

responsible. OSAG had a key role in advising on the devolution aspects of UK Government policies, and on the implications for UK Departments of proposals by Scottish Ministers and of Bills introduced into the Scottish Parliament by Scottish Ministers, Members, Committees, and by private promoters. The Office provided a wide range of advice to many Departments. It also advised agencies and other organisations including the Patent Office, the Registrar of Companies, and the Office of Fair Trading. The Office also regularly supports the Scotland Office in a number of important areas.

### **Primary and Subordinate Legislation**

**3.15** OSAG instructs the Scottish Parliamentary Counsel (UK) in the drafting of provisions for Scotland in Bills before the UK Parliament and drafts subordinate legislation on behalf of UK Departments.

**3.16** A full list of UK Government Bills that were introduced in the relevant period and on which OSAG was involved in instructing or advising is included at Annex 7. As far as subordinate legislation is concerned, OSAG was responsible for the drafting of a number of Regulations particularly those relating to the Scottish Parliament election in 2007, and for advising on the Statutory Instruments listed in Annex 6. OSAG also contributed to a wide range of secondary legislation prepared by UK Departments.

### **Support to the Advocate General**

**3.17** OSAG was responsible for advising the Advocate General with respect to his functions under the Scotland Act in relation to the assessment of the legislative competence of Bills introduced into the Scottish Parliament, and in relation to his powers to intervene in devolution issues under Schedule 6 to that Act. A list of the Scottish Parliament Bills scrutinised during 2007-08 is given in Annex 8.

### **Litigation**

**3.18** During 2007-08, 564 devolution issue minutes were intimated; a decrease of 19.5% over the previous year. The Advocate General intervened in 20 cases during the year, however, compared to 12 in the previous year. Accordingly, there has been a significant increase in the number of cases in which the Advocate General has intervened. Moreover, most of these cases have raised complex issues of importance that have been heard before the highest Courts, including the Inner House of the Court of Session, the Judicial Committee of the Privy Council and the House of Lords.

**3.19** The demands of this and other complex litigation for Whitehall Departments, combined with competing demands on staff time in OSAG Division B for legislative and advisory services, resulted in it being necessary to re-structure

and increase staff resources. This involved the creation of Division C in October 2007, with five additional legal posts, one of which was temporarily vacant at the end of the reporting year. Division C provides litigation services for Departments not served by Division A.

- 3.20** Immigration litigation continues to be is a major area of work for Division A. During the year, 152 petitions for judicial review and appeal cases were raised in the Court of Session against the Home Office. The number of appeals rose significantly and now account for 21% of the forthcoming business of the Inner House of the Court of Session; this an increase of 50% over the previous year.
- 3.21** Another significant area of work for Division A is social security litigation. In the year, the Office appeared for the Secretary of State for Work and Pensions in 33 appeals to the Child Support and Social Security Commissioners. This represents a decrease in litigation work. This was offset, however, by an increase in advisory work for the Department of Work and Pensions.
- 3.22** In the last year, OSAG has also acted on behalf of the Lord Lyon, King of Arms, in judicial review proceedings, and has assisted the Scotland Office in appeals before the Information Tribunal.

### **Legal Secretariat to the Advocate General**

- 3.23** The Legal Secretariat co-ordinates with the Attorney General's Office on submissions for legal advice received from UK Departments. This work results in formal advice, as agreed between the UK Law Officers, which is given to the Departments concerned.
- 3.24** It is a long standing convention that neither the Law Officers nor the Government disclose whether, or in what circumstances, the Law Officers have given advice, let alone what the content of such advice may have been. Accordingly, no details of this significant aspect of this advisory work are disclosed in this report.
- 3.25** The Legal Secretariat also supported the Advocate General in respect of his work on Cabinet Committees, in answering Parliamentary Questions and other work in the House of Lords. Further, in relation to the Advocate General's functions under section 33 of the Scotland Act, the Legal Secretariat consulted Government Departments regarding whether, in their view, Bills passed by the Scottish Parliament were within legislative competence. Under Section 33, the Advocate General may refer to the Judicial Committee of the Privy Council the question of whether a Bill, or any provision of a Bill, would be within the legislative competence of the Scottish Parliament.

## Plans for 2008-09

### Objectives for 2008-09

**3.26** The Office has adopted the following objectives for 2008-09:

**Objective 1:** Providing high quality legal advice and efficient services in relation to Scots Law and the Scottish devolution settlement to UK Government Departments

**Objective 2:** Providing high quality and efficient services to the Advocate General for Scotland in support of his role in upholding the rule of law and of his functions under the Scotland Act and in relation to the Human Rights Act

### Office of the Solicitor to the Advocate General

**3.27** OSAG will continue to provide an efficient and responsive, high quality, legal service to United Kingdom Government Departments in relation to litigation in Scotland and legislation affecting Scotland, and to give effective, high quality, legal advice in relation to Scots Law generally. It will also ensure that the Advocate General receives effective support in carrying out his statutory functions under the Scotland Act and in relation to the Human Rights Act.

### Legal Secretariat to the Advocate General

**3.28** The Legal Secretariat, including the Ministerial Private Office, will continue to provide an efficient, responsive, high quality legal and administrative service to the Advocate General. The Secretariat will support him in the performance of his functions as a UK Law Officer upholding the rule of law and in relation to his statutory functions, as well as in respect of his work on Cabinet Committees and in the House of Lords.

# Chapter 4: Government Expenditure in Scotland

## Funding

- 4.1** Responsibility for fiscal policy, macroeconomic policy and public expenditure allocation across the United Kingdom remains with HM Treasury, and the Scottish Executive's budget continues to be determined within the framework of public expenditure control in the United Kingdom. The financial relationship is set out in the *Statement of Funding Policy*<sup>8</sup>.
- 4.2** The Scottish Executive's budget is determined by means of a population-based formula (the 'Barnett' formula). The UK Parliament votes the necessary provision to the Secretary of State, who, in turn, makes grants to the Scottish Executive as set out in the Scotland Act 1998. Provision for the costs of the Scotland Office, OAG, Scottish Parliament Elections and European Elections are found from within these resources.
- 4.3** The Scottish Executive makes its own spending decisions on devolved programmes within the overall totals, subject to approval by the Scottish Parliament.

## Comprehensive Spending Review 2007

- 4.4** The Scottish Executive received substantial increases in spending in the 2007 spending review, with spending some £3.7 billion higher by 2010-2011 compared to 2007-08<sup>9</sup>.

## Budget 2008

- 4.5** The Chancellor of the Exchequer announced in his 2008 Budget, an extra £26 million for the Scottish Executive as a consequence of spending increases for UK Government Departments. It is for Scottish Ministers to decide how these monies will be spent in Scotland. Copies of the full Budget details are available on HM Treasury's website at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk).

<sup>8</sup> The most recent edition was published in October 2007 and is available at [http://www.hm-treasury.gov.uk/media/2/2/pbr\\_csr07\\_funding591.pdf](http://www.hm-treasury.gov.uk/media/2/2/pbr_csr07_funding591.pdf)

<sup>9</sup> See Table 1.3 of *Meeting the aspirations of the British people* (Command 7227) published in October 2007

## Spending by the Scotland Office and Office of the Advocate General

**4.6** Details of planned Scotland Office and Office of the Advocate General expenditure are contained in Annex 1. The combined provision for the net administration costs for the two Offices is £6.824 million in 2008-09.

## Scottish Executive Budget

**4.7** The Scottish Executive has published details of how it has allocated its budget for 2008-09; these are contained in *Scotland's Budget Documents 2008-09*<sup>10</sup>.

**4.8** Annex 2 shows changes in the Scottish Executive Departmental Expenditure Limit (DEL) between Public Expenditure Statistical Analyses<sup>11</sup> (PESA) 2007 and 2008.

## Government Expenditure and Revenue in Scotland (GERS)

**4.9** The Scottish Executive is responsible for publishing *Government Expenditure and Revenue in Scotland* and decided to delay the publication of the 2005-06 report until June 2008, when the 2006-07 report will also be published. The most recent report, *Government Expenditure and Revenue in Scotland 2004-2005* was published on 11 December 2006<sup>12</sup>, and provides an analysis of the public finances in Scotland. This was the thirteenth edition of the report; reports before July 1999 were published by the Scottish Office.

## Resource Accounting and Budgeting

**4.10** This provides an accurate measure of Departmental expenditure by matching costs to time, measuring the full resource cost of Government activity, including non-cash expenditure such as depreciation, cost of capital charges and provisions.

**4.11** The aim of the tables in this report is to provide a detailed analysis of Departmental expenditure plans in resource terms, showing resource consumption and capital investment; voted and non-voted expenditure; expenditure in three year Departmental Expenditure Limits (DEL) and Annually Managed Expenditure (AME).

<sup>10</sup> <http://www.scotland.gov.uk/Publications/2008/02/21153821/0>

<sup>11</sup> PESA is a compendium that brings together recent outturn data, estimated outturns for the latest year and budgetary plans over the whole range of UK public expenditure. It is published annually as a Command paper alongside the Supply Estimates and Departmental Reports. It includes an analysis of public spending by country and region, spending by function and economic category of expenditure, and full details of spending by Department and grouped by budgetary control aggregates. The most recent edition of PESA, which was published on 21 April 2008, is available at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk).

<sup>12</sup> This publication can be found at <http://www.scotland.gov.uk/Resource/Doc/159996/0043602.pdf>

**4.12** Following the decision to introduce resource budgeting in two stages, the major non-cash items – depreciation, cost of capital charges and provisions – scored in AME for the 2000 Spending Review years. From 2003-04, with the introduction of the 2002 Spending Review and Stage 2 resource budgeting, these items score in DEL.

### **Whole of Government Accounts (WGA)**

**4.13** The Scotland Office continues to participate in the WGA project, which is being conducted by HM Treasury. WGA will comprise a consolidation of the individual accounts of all of the public bodies that are designated under the Government and Resource Accounts Act 2000, and also public bodies governed by the Public Finance (Scotland) Act 2000. A staged approach has been adopted to produce a WGA starting with a ‘dry run’ consolidation in 2001-02 of central government bodies, which included Departments, their agencies and non-Departmental public bodies, and funds. In 2004-05, health and local government bodies, and public corporations were included in the ‘dry run’ consolidation. The Scotland Office has been involved since the inception of the project, providing data for ‘dry runs’ since 2001-02 and assisting with the development of systems. The process will result in the publication of WGA for 2009-10 as announced by the Chancellor of the Exchequer in the budget speech in March 2008. These accounts will be based on international financial reporting standards which will also apply for the first time to the published accounts of central government bodies.

# Chapter 5: Delivering Efficient and Effective Government

## Performance Targets

**5.1** For 2007-08, the Offices set three main indicators aimed at ensuring the provision of high quality and efficient services in dealings with the public:-

### Performance Targets in 2007-08 for Dealing with the Public

Target	Indicator	Performance in 2007-08
We will reply to Ministerial correspondence within 15 working days of receipt; or we will send an interim reply explaining the reasons for the delay and indicating when a full reply will be sent.	Percentage of correspondence replied to within 15 days	<ul style="list-style-type: none"> <li>The Scotland Office replied to 88% of ministerial correspondence within the target time</li> <li>The Office of the Advocate General replied to 100% of ministerial correspondence within the target time</li> </ul>
We will reply to FOI requests within 20 working days of receipt or with permitted extension or we will send an interim reply explaining the reasons for the delay and indicating when a full reply will be sent.	Percentage of correspondence replied to within 20 days.	<ul style="list-style-type: none"> <li>The Scotland Office replied to 66% of FOI requests within 20 working days</li> <li>The Office of the Advocate General replied to 100 % of FOI requests within the target time</li> </ul>
We will ensure that accounts are paid promptly. Where a contract applies, we will make payment in accordance with the applicable timetable. We will otherwise pay accounts within 30 days of receipt of a valid invoice.	Percentage of payments made within target times	The payment target was met in 99.53 % of payments.

**5.2** The Offices have decided upon the following performance indicators for 2008-09:-



## Performance Indicators for 2008-09 for Dealing with the Public

Target	Annual Indicator
We will reply to Ministerial correspondence within 15 working days of receipt or we will send an interim reply explaining the reasons for the delay and indicating when a full reply will be sent.	Percentage of correspondence.
We will reply to FOI requests within 20 working days of receipt.	Percentage of correspondence.
We will ensure that accounts are paid promptly. Where a contract applies, we will make payment in accordance with the applicable timetable. We will otherwise pay accounts within 30 days of receipt of a valid invoice.	Percentage of payments made.

**5.3** These targets are monitored by the Joint Management Board (see para 5.11 et seq).

### Freedom of Information Act 2000

**5.4** Under the Act, the Scotland Office and Office of the Advocate General are required to respond to written requests for information within 20 working days. Information released and considered to be in the wider public interest is placed on the Offices' web site and recorded on the Offices' disclosure logs. In addition, the Office has an Agreement with the Scottish Executive on the handling of information contained in the pre-devolution records of the former Scottish Office.

**5.5** In 2007-08, the Scotland Office received 71 requests and OAG dealt with 3 requests under Freedom of Information legislation.

### Complaints Procedure

**5.6** The Offices have a formal complaints procedure. This is included in the Scotland Office Charter, which can be viewed on our website at [www.scotlandoffice.gov.uk](http://www.scotlandoffice.gov.uk). One complaint was received in 2007-08.

### Efficient Use of Resources

**5.7** Delivering efficient public services is a central plank of the Government's agenda for improving productivity. We are committed to achieving efficiency and effectiveness in all areas of our activities in order to contain spending within the Scotland Office spending review settlement while delivering increased outputs.

**5.8** The Scotland Office's executive functions relate to the conduct of elections and to the delivery of subordinate legislation and certain other functions under the Scotland Act. In addition, the Office plays a key role in helping to

facilitate exchanges and coordination between the UK Government and the Scottish Executive. It advises Ministers across the whole range of reserved policy matters.

- 5.9** Programme expenditure is small (£0.3m) and relates to the Boundary Commission for Scotland. The bulk of the costs of the Scotland Office and the Office of the Advocate General relate to staffing and associated expenditure linked to advisory and support functions for Ministers. The Offices did not incur any expenditure on consultancies in 2007-08.

## Corporate Governance

- 5.10** The Director of the Scotland Office is an Additional Accounting Officer (AAO) within the overall responsibility of the Accounting Officer of the MoJ. The former's responsibilities cover both the Scotland Office and the Office of the Advocate General.

- 5.11** The Offices have a Joint Management Board that oversees both organisations; the Director of the Scotland Office chairs that Board. This Board meets regularly and considers a wide range of issues, from the overall complement of the Offices to the budgeting allocations within the Offices. The Board's non-executive member is an official of the MoJ and the AAO is satisfied that he will be able to give the Board independent advice.

- 5.12** In addition, the Joint Management Board has two sub-committees; Audit (described in paragraph 5.13) and the OAG Management Group; the latter deals with operational matters within the Office of the Advocate General.

## Audit Committee

- 5.13** The Offices have a single Audit Committee whose remit is to evaluate and challenge the activities of the SO and OAG but is not responsible for the wider MoJ organisation. It may, however, if it considers this necessary, report issues to the corporate Audit Committee of the MoJ.

- 5.14** The Committee has been re-constituted to meet the guidance in the *Audit Committee Handbook* and to reflect the *Corporate Governance in Central Government Departments: Code of good practice*. During the year, the Committee had three members, two external<sup>13</sup> and one a private individual. The Chairman of the Committee is a Non-Executive Member of the Joint Management Board. The Committee met 4 times in the year and discussed a range of subjects, particularly the audit relationship with the Scottish Executive and the Offices' expenditure plans. The Committee's Annual Report is shown at Annex 10.

<sup>13</sup> At the end of the year, one of the external members resigned his position and the Scotland Office is in the process of seeking a successor.

## Services Provided by the Scottish Executive and the MoJ

- 5.15** Both the Scottish Executive and MoJ provide help and support to the Offices including information and communications technology, financial systems, personnel and accommodation. The Offices also endeavour – wherever possible – to utilise existing contracts operated by the Scottish Executive or MoJ for goods and services.
- 5.16** The Scotland Office and the Office of the Advocate General do not provide executive services directly to the public but nonetheless need modern information systems for dealing with intra-Government contacts, explaining UK policies and reporting the activities of Ministers. The Offices are an integral part of the Scottish Executive's IT systems. The Offices have staff based in Edinburgh and London and therefore make extensive use of communications technology including e-mail, scanning and videoconferencing.
- 5.17** The Offices regularly update their internet and intranet sites. The relevant internet sites are

<http://www.scotlandoffice.gov.uk/>

<http://www.oag.gov.uk/>

## Sustainable Development

- 5.18** The Scotland Office manages its buildings and resources in accordance with the Government's sustainable development strategy. David Cairns, Minister of State, serves as a member of the Ministerial Sub-Committee on Energy and the Environment (Sustainable Development in Government), whose purpose is to consider the impact of Government policies on sustainable development and to continue to improve the performance of Departments in sustainable development terms.

## Health and Safety

- 5.19** The Offices aim to provide a safe and healthy working environment for all staff and have procedures in place, where possible, which will ensure that all equipment, plant and premises are safe and free from adverse effects to health. The Offices have 5 staff trained in Health and Safety management who undertake regular workplace inspections and conduct risk assessments, including Display Screen Equipment assessments. The Offices recognises environmental protection as an integral element of efficient business management and the aim is to protect, maintain and, where possible, improve the environment.

## Recruitment of Staff

**5.20** Most of the staff in the Office of the Advocate General, and almost half of the staff in the Scotland Office, are seconded from the Scottish Executive. They are mainly based in Edinburgh. Most of the remaining staff are employees of the MoJ and are based in London. The Offices seek staff on secondment that can provide additional skills and experience that can underpin the Offices' roles.

**5.21** Both the Scottish Executive and the MoJ recruit staff in accordance with the Civil Service Order in Council 1995. Every individual appointed is selected on merit on the basis of fair and open competition, apart from cases where exceptions are permitted under Articles 6 and 7 of the Order. To this end:

- Prospective candidates are given equal and reasonable access to adequate information about the job and its requirements and about the selection process
- Applicants are considered equally on merit at each stage of the selection process
- Selection is based on relevant criteria applied consistently to all candidates
- Selection techniques are designed to be reliable and guard against bias
- Equal opportunities policies apply throughout the recruitment process

## Ethnic Minorities

**5.22** Information on the ethnic origin of civil servants is collected using a voluntary, confidential questionnaire. To protect the identity of individual staff, data relating to fewer than five people is not disclosed in equal opportunities monitoring. Action is being taken across the Civil Service to address the under-representation of ethnic minorities. Diversity awareness training is mandatory for all Scotland Office and OAG staff.

## People with Disabilities

**5.23** The Scotland Office and OAG have a small number of staff with disabilities; for privacy reasons, the actual numbers are considered confidential. The Offices are aware of their responsibilities under the Disability Discrimination Act 1995 and, with this in mind, have provided an external stair lift and an internal lift at its premises in Melville Crescent.

## ANNEX 1:

### Departmental Expenditure Limit - Scotland Office, Office of the Advocate General and Scottish Executive

	2002 -2003 outturn £'000	2003 -2004 outturn £'000	2004 -2005 outturn £'000	2005 -2006 outturn £'000	2006 -2007 outturn £'000	2007 -2008 estimated outturn £'000	2008 -2009 provision £'000	2009 -2010 provision £'000	2010 -2011 provision £'000
<b>Resource</b>									
Scotland Office Administration costs	6,381	4,467	3,703	3,360	3,631	4,389	3,603	3,903	2,803
Scotland Office other	369	362	325	279	227	475	300	300	300
OAG Administration costs	0	1,464	1,484	1,845	1,935	2,560	2,921	2,921	2,921
<b>SO &amp; OAG - Administration costs</b>	<b>6,750</b>	<b>6,293</b>	<b>5,512</b>	<b>5,484</b>	<b>5,793</b>	<b>7,424</b>	<b>6,824</b>	<b>7,124</b>	<b>6,024</b>
Boundary Commission	253	244	178	141	119	300	300	300	300
Commission on Boundary Differences & Voting Systems in Scotland	0	0	108	135	0	0	0	0	0
<b>SO &amp; OAG Resource</b>	<b>7,003</b>	<b>6,537</b>	<b>5,798</b>	<b>5,760</b>	<b>5,912</b>	<b>7,724</b>	<b>7,124</b>	<b>7,424</b>	<b>6,324</b>
SO & OAG Capital	88	13	76	64	0	100	100	100	100
<b>SO &amp; OAG DEL</b>	<b>7,091</b>	<b>6,550</b>	<b>5,874</b>	<b>5,824</b>	<b>5,912</b>	<b>7,824</b>	<b>7,224</b>	<b>7,524</b>	<b>6,424</b>
<b>Scottish Executive</b>									
Near Cash	15,583,699	17,890,057	18,482,304	19,975,972	21,398,736	22,932,651	23,532,343	24,431,617	25,453,712
Non Cash	663,010	531,151	976,803	815,019	954,968	911,607	889,724	966,508	1,053,207
<b>Scottish Executive Resource</b>	<b>16,246,709</b>	<b>18,421,208</b>	<b>19,459,107</b>	<b>20,790,991</b>	<b>22,353,704</b>	<b>23,844,258</b>	<b>24,422,067</b>	<b>25,398,125</b>	<b>26,506,919</b>
Scottish Executive Capital	1,905,744	1,696,982	2,170,568	2,390,089	3,035,063	3,540,322	3,147,363	3,341,892	3,640,822
<b>Scottish Executive DEL</b>	<b>18,152,453</b>	<b>20,118,190</b>	<b>21,629,675</b>	<b>23,181,080</b>	<b>25,388,767</b>	<b>27,384,580</b>	<b>27,569,430</b>	<b>28,740,017</b>	<b>30,147,741</b>
Election expenditure (Resource non-voted)	2,724	12,179	8,095	8,237	1,081	17,489			
<b>Total Scottish Block</b>	<b>18,162,268</b>	<b>20,136,919</b>	<b>21,643,644</b>	<b>23,195,141</b>	<b>25,395,760</b>	<b>27,409,893</b>	<b>27,576,654</b>	<b>28,747,541</b>	<b>30,154,165</b>

Totals may not sum due to roundings.

## ANNEX 2:

### Changes to Scottish Executive Departmental Expenditure Limit for 2005-06 to 2010-11 since PESA 2007

	2005-06 £m Outturn	2006-07 £m Outturn	2007-08 £m Estimated Outturn	2008-09 £m Plans	2009-10 £m Plans	2010-11 £m Plans
Position at publication of PESA 2007 (Table 1.12) net of depreciation	22,722	24,806	26,271			
Depreciation & Impairments	331	461	357			
<b>Subtotal</b>	<b>23,053</b>	<b>25,267</b>	<b>26,628</b>			
Outturn adjustments		-18	-25			
Take up of End Year Flexibility			655			
Comprehensive Spending Review				27,601	28,755	30,142
Budgeting Changes	128	140	100	-40	-20	
Budget 2008				6	3	5
Inter-Departmental Transfers			27	1	2	1
Invest to Save Budget				1		
<b>Subtotal</b>	<b>128</b>	<b>122</b>	<b>757</b>	<b>27,569</b>	<b>28,740</b>	<b>30,148</b>
Capital DEL plus Resource DEL	23,181	25,389	27,385	27,569	28,740	30,148
Less Depreciation & Impairments	-330	-438	-356	-302	-363	-396
Position at publication of PESA 2008 (Table 1.12) net of depreciation	22,851	24,951	27,029	27,267	28,377	29,752

Totals may not sum due to roundings.

## ANNEX 3:

### Grant paid to the Scottish Consolidated Fund 2006-07: Provision and Outturn

	Original Provision £m	Final Provision £m	Final Outturn £m
Expenditure Classified as DEL	25,145	25,372	25,389 <sup>(1)</sup>
Expenditure Classified as AME	2,566	2,603	2,188 <sup>(1)</sup>
Non Domestic Rates	1,884	1,884	1,884
<b>Total Managed Expenditure</b>	<b>29,595</b>	<b>29,859</b>	<b>29,461</b>
<b>Adjustments to cash requirement</b>			
Non-budgetary cash items including Housing Stock Transfers	10	132	108
Depreciation & Impairments	-395	-461	-438
Other Cash to accruals adjustments	-2,958	-2,980	-2,711
Non Domestic Rates Income	-1,884	-1,884	-1,884
National Insurance Fund Payments towards Scottish NHS	-1,406	-1,632	-1,653
Other items including LA supported borrowing and non voted expenditure	-309	-309	-315
Net balance in Scottish Consolidated Fund			-816
<b>Grant paid to Scottish Consolidated Fund</b>	<b>22,653</b>	<b>22,725</b>	<b>21,752</b>

Totals may not sum due to roundings.

<sup>(1)</sup> Takes into account Budgeting Changes as detailed in Annex 2

## ANNEX 4:

### Grant paid to the Scottish Consolidated Fund 2007-08: Provision and Estimated Outturn

	Original Provision £m	Final Provision £m	Estimated Outturn £m
Expenditure Classified as DEL	26,628	27,409	27,385 <sup>(1)</sup>
Expenditure Classified as AME	3,489	3,812	3,787 <sup>(1)</sup>
Non Domestic Rates	1,860	1,860	1,860
<b>Total Managed Expenditure</b>	<b>31,977</b>	<b>33,081</b>	<b>33,032</b>
<b>Adjustments to cash requirement</b>			
Non-budgetary cash items including Housing Stock Transfers	25	114	101
Depreciation & Impairments	-357	-411	-411
Other Cash to accruals adjustments	-3,449	-3,783	-3,767
Non Domestic Rates Income	-1,860	-1,860	-1,860
National Insurance Fund Payments towards Scottish NHS	-1,406	-1,814	-1,815
Other items including LA supported borrowing and non voted expenditure	-317	-317	-317
Net balance in Scottish Consolidated Fund			-345
<b>Grant paid to Scottish Consolidated Fund</b>	<b>24,613</b>	<b>25,010</b>	<b>24,617</b>

Totals may not sum due to roundings.

<sup>(1)</sup> Takes into account Budgeting Changes as detailed in Annex 2



## ANNEX 5:

### Reconciliation of the Grant payable to the Scottish Consolidated Fund with Total Managed Expenditure in Scotland: 2008-09

	Original Provision £m
Expenditure Classified as DEL	27,569
Expenditure Classified as AME	3,241
Non Domestic Rates	1,963
<b>Total Managed Expenditure</b>	<b>32,773</b>
<b>Adjustments to cash requirement</b>	
Non-budgetary cash items	25
Depreciation and Impairments	-357
Other Cash to accruals adjustments	-3,740
Non Domestic Rates Income	-1,963
National Insurance Fund Payments towards Scottish NHS	-1,724
Other items including LA supported borrowing and non voted expenditure	-317
<b>Grant payable to Scottish Consolidated Fund</b>	<b>24,697</b>

Totals may not sum due to roundings.

## ANNEX 6:

### Scotland Act Orders and other Statutory Instruments

<i>SI Number</i>	<i>Title</i>
2007/2139	The Scotland Act 1998 (Cross-Border Public Authorities) (Traffic Commissioner for the Scottish Traffic Area) Order 2007
2007/2262	The Scottish Parliament (Elections etc.) (Amendment) Order 2007
2007/2915	The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2007
2007/3480	The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Powers of District and JP Courts) Order 2007
2008/48	The Absent Voting (Transitional Procedures)(Scotland) Regulations 2008
2008/305	The Representation of the People (Scotland)(Amendment) Regulations 2008
2008/307	The Scottish Parliament (Elections etc.)(Amendment) Order 2008
2008/662	The Insolvency (Scotland) Amendment Rules 2008

## ANNEX 7:

### UK Government Bills

#### Westminster Bills introduced on which OSAG was involved in instructing or advising

Alcohol Labelling Bill

Banking (Special Provisions) Bill

Channel Tunnel Rail Link (Supplementary Provisions) Bill

Child Maintenance and Other Payments Bill

Climate Change Bill

Counter-Terrorism Bill

Criminal Justice and Immigration Bill

Dormant Bank and Building Society Accounts Bill

Education and Skills Bill

Employment Bill

Energy Bill

European Union (Amendment) Bill

Football Spectators and Sports Grounds Bill

Fraud (Trials without a Jury) Bill

Health and Social Care Bill

Housing and Regeneration Bill

Human Fertilisation and Embryology Bill

International Tribunals (Sierra Leone) Bill

Legal Services Bill

Local Transport Bill

Pensions Bill 2007-08

Planning Bill

Regulatory Enforcement and Sanctions Bill

Statute Law (Repeals) Bill

#### Bills published in draft for consultation in the period

Constitutional Renewal Bill

Cultural Property (Armed Conflict) Bill

## **ANNEX 8:**

### **Scrutiny of Scottish Parliament Bills**

In connection with advising the Advocate General on his functions under Section 33 of the Scotland Act, the Office of the Solicitor to the Advocate General considered the legislative competence of the following Bills before the Scottish Parliament in 2007-08.

Abolition of Bridge Tolls (Scotland) Bill
Budget (Scotland) Bill
Glasgow Commonwealth Games Bill
Graduate Endowment Abolition (Scotland) Bill
Judiciary and Courts (Scotland) Bill
Public Health etc (Scotland) Bill

# ANNEX 9:

## Staffing

	2004-05			2005-06			2006-07			2007-08			2008-09		2009-10		2010-11						
	SO		OAG	SO		OAG	SO		OAG	SO		OAG	SO	OAG	SO	OAG	SO	OAG					
	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual	Comp	Actual					
Permanent staff	65	56	35	28	60	51	32	30	30	54	48	32	30	30	55	51.5	32	34.3	55	38	55	38	
Casual staff				1			1.5				0.3		1.9			1.4		0.9					
Overtime	1	1	1	1	1	0.5	0.5		0.6		1.3					1.4		1.1					
Total	66	57	36	30	61	51.5	33	32	32.5	54	49.6	32	32.5	55	54.3	32	36.3	55	38	55	38	55	38

**Notes:**

1. "Comp" refers to the complement of staff agreed by the Offices' Joint Management Board at the beginning of each financial year.
2. The "actual" figures show the average number of staff in post throughout the year and thus reflect fluctuations in staffing due to transfers, vacancies, retirements etc.
3. Details of the staff in post at 31 March 2008 are shown at paras 2.3 and 3.8

## **ANNEX 10:**

### **Annual Report of the Audit Committee**

#### **Audit Committee<sup>14</sup>: Annual Report**

The Audit Committee met on 18 April 2007, 23 July 2007, 5 October 2007 and 21 February 2008. Three of the meetings were held in Dover House, London and one in Melville Crescent, Edinburgh. In addition to the Members, meetings are attended by the Director of the Scotland Office, representatives of the National Audit Office and Internal Audit of the Ministry of Justice, as well as the Head of Finance in the Scotland Office. The Committee may also ask other officials to attend, as necessary.

The Committee considers the assurance available to the Director of the Scotland Office about its operation, and may raise any issues with senior management that it considers appropriate. During the year, the Committee had wide-ranging discussions on several subjects. In particular, members discussed Corporate Governance & Risk Management, the Statement of Internal Control and regularly reviewed the Offices' projected expenditure and overall payment performance. Regular progress reports were also received from Internal Audit and the National Audit Office. It also benchmarked its own operation against the best practice set out in the Treasury's Audit Committee Handbook.

A range of other subjects including Data Integrity Assurance, Strategy and Business Plans and the draft Annual Report were also discussed. The Committee also considered the cumulative impact on the Offices of a number of issues over the year, including the outcome of the Scottish Parliamentary Election, the creation of the Ministry of Justice and changing ministerial priorities.

#### **MARK TAYLOR**

Chair

<sup>14</sup> See para 5.13 et seq



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