

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 4, page 3, line 23

After the word <publish> insert <in writing>

Effect

This amendment would require notices issued under section 4(6) to be published in writing.

Reason

The proposed amendment enhances the existing provisions within this section which relate to publication of notices of directions or revocations of directions, clarifying that such notices must be published in writing, rather than by another means. It is appropriate that provisions for publication of notices of directions follow the same pattern as the provisions relating to directions set out in section 4(4), which require a direction to be in writing. There is merit in consistency within the section.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 4, page 3, line 23

After the word <appropriate> insert <and as soon as reasonably practicable after it is given>

Effect

This amendment has the effect of introducing a time frame for publication of a notice under section 4(6).

Reason

Introducing a time frame for publication of a notice under this subsection enhances accountability of the Scottish Ministers by providing that a notice is to be published timeously after it has been given. It is anticipated that this would ensure meaningful scrutiny can take place of any such directions, revisions of directions, or revocations of directions issued by Scottish Ministers.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 4, page 3, line 25

Add at end –

<() any revision of such a direction under
subsection 5(b)>

Effect

This amendment would require notice of any revision of a direction under section 4(5)(b) to be published.

Reason

The proposed amendment enhances the existing provisions within this section which relate to publication of notices of directions or revocations of directions, but as introduced, does not cover publication of notices of revisions of directions. It is appropriate to have consistency in the publication requirements across the face of the Bill. A publication requirement covering notices of revisions of directions would enhance accountability of the Scottish Ministers.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 5, page 4, line 11

After the word <be> insert <varied or>

Effect

The amendment would clarify the matters which may be provided for in the delegation agreement.

Reason

The proposed amendment highlights an additional matter which may be included in the terms and conditions within the delegation agreement. A variation to the agreement could be significant and therefore it is important for the circumstances in which a variation could take place to be incorporated.

SCOTTISH CROWN ESTATE BILL
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In section 5, page 4, line 11

Add at end –

<() any salary or other consideration to be paid
under the agreement.>

Effect

The amendment would clarify the matters which may be provided for in the delegation agreement.

Reason

The proposed amendment highlights an additional matter which may be included in the terms and conditions within the delegation agreement. For example, “other consideration” could constitute a cash payment, a payment of shares, or a payment of goods or services.

SCOTTISH CROWN ESTATE BILL
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In section 5, page 4, line 22

Add at end –

<() The agreement must be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after the agreement is entered into.>

Effect

This amendment requires publication of the agreement after its conclusion.

Reason

At present, there is no requirement for publication of the agreement. We appreciate that at the time that an agreement is being negotiated, there may be commercial sensitivities around the terms and conditions of the agreement. However, once the agreement has been entered into, we consider there would be merit in requiring its publication to provide for accountability of Scottish Ministers or other managers of Scottish Crown Estate assets.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 6, page 4, line 26

Leave out <relates to a community> and insert
<has objectives to promote, support or
represent a community,>

Effect

The amendment would bring clarity to the meaning of “community organisation” and the defining characteristics of such a body.

Reason

We note the requirements for a community body are framed in similar terms to those found in section 19 of the Community Empowerment (Scotland) Act 2015. We do however have concerns regarding the drafting of this section. We do not consider that the meaning of “relates to a community” where it appears in section 6(1)(a) is clear. We therefore suggest the wording “has objectives to promote, support or represent a community” is used as we consider that this provides a clear purpose for the body to be linked to the benefit for a community.

SCOTTISH CROWN ESTATE BILL
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In section 6, page 4, line 34

Leave out <to>

Effect

This is a paving amendment.

SCOTTISH CROWN ESTATE BILL
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In section 6, page 4, line 34

Leave out <relates> and insert <promotes,
supports or represents>

Effect

This is a consequential amendment.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 6, page 5, line 2

Add at end –

<() A community –

(a) shall be defined for the purposes of this section by reference to a postcode unit or postcode units or a prescribed type of area (or both such unit and type of area); and

(b) shall comprise the persons from time to time –

(i) resident in that postcode unit or in one of those postcode units or in that prescribed type of area; and

(ii) entitled to vote, at a local government election, in a polling district which includes that postcode unit or those postcode units or that prescribed type of area (or part of it or them).>

Effect

This amendment inserts a definition for “community”.

Reason

The concept of “community” is not defined within the Bill. We consider that there is merit in having clarity as to the meaning of such a concept given the potential for different criteria to be used to identify a community. The proposed definition is the same as that set out in section 34(5) of the Land Reform (Scotland) Act 2003 which concerns community right to buy. There is generally merit in consistency of use of definitions across legislation.

SCOTTISH CROWN ESTATE BILL
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In section 6, page 5, line 2

Add at end –

<() In subsection () above, “postcode unit” means an area in relation to which a single postcode is used to facilitate the identification of postal service delivery points within the area.>

Effect

This is a consequential amendment.

Reason

If our proposed definition of “community” is accepted, this amendment provides a definition of “postcode unit” as referred to within that amendment. The proposed definition is the same as that set out in section 34(6) of the Land Reform (Scotland) Act 2003.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 7, page 5, line 11

Leave out subsection (2) and insert –

<(2) The manager must do in a way that is likely to contribute in Scotland to the –

- (a) promotion of –
 - (i) economic development,
 - (ii) regeneration,
 - (iii) sustainable development, and
- (b) improvement of –
 - (i) social wellbeing,
 - (ii) environmental wellbeing.>

Effect

The amendment would require the manager to act in such a manner so as to contribute to the promotion or improvement to the matters listed in subsection 2 when maintaining and seeking to enhance the value of the assets and the income arising from them.

Reason

The Bill as introduced provides that the manager “may” contribute to the promotion or improvement of various factors when maintaining and seeking to enhance the value of the value and the income arising. This Bill does not require the manager to do so. We consider that these matters, listed in subsection 2, are of such significance that there should be a requirement for managers to act in a way which is likely to contribute to the promotion or improvement of these.

We consider that the way in which the section is currently drafted is dissonant. For example, the concepts of ‘improvement’ of economic development and ‘improvement’ of regeneration are not clear, yet it is appropriate that these factors are promoted.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 8, page 5, line 25

After <may> insert <subject to section 10>

Effect

The amendment would clarify that the manager's powers to transfer ownership of an asset or to acquire land on behalf of the Crown are subject to the provisions of section 10.

Reason

At present, a transfer of ownership by a manager in terms of section 8 is subject to the requirements of section 10, being that in certain cases, the transfer may only take place with the consent of Scottish Ministers. This is not specifically referred to within section 8 and for clarity, we consider that it would be beneficial for this to be included.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 12, page 7, line 19

Leave out from <estimated> to <lease> where it appears in line 29 and insert –

<best consideration in money or money's worth which can reasonably be obtained, having regard to all the circumstances of the case but ignoring for that purpose any element of monopoly value which may exist>

Effect

The amendments would alter the definition of “market value” found in the Bill.

Reason

We note that the definition of “market value” used in the Bill is based on that contained within the Royal Institution of Chartered Surveyors’ (RICS) Valuation – Global Standards 2017. The definition appears to be comprehensive however reliance on extrinsic definitions brings a risk of the basis of the definition found in the Bill being amended by its source. This could result in uncertainty.

There are settled definitions of “market value” within existing legislation. There is generally merit in consistency of use of definitions across legislation and this amendment proposes use of the definition of “market value” as provided for in the Crown Estate Transfer Scheme 2017 (S.I. 2017/524).

SCOTTISH CROWN ESTATE BILL
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In section 12, page 7, line 30

Leave out subsection (2) and insert –

<(2) Where a manager enters into an agreement under which a relevant transaction may or is to occur more than 10 years after the day on which the agreement is entered into, the market value is to be determined on the day on which the relevant transaction may or is to occur.>

Effect

This is a consequential amendment.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 12, page 7, line 35

Leave out subsection (3)

Effect

This is a consequential amendment.

Reason

If our proposed definition of “market value” is accepted, this subsection is no longer required as the same definition of “market value” is given as in the Crown Estate Transfer Scheme 2017 (S.I. 2017/524).

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 20, page 9, line 32

After the word <assets> insert <and proposals for disposal of assets>

Effect

The amendment widens the scope of what must be included by Scottish Ministers in the strategic management plan.

Reason

The Bill as introduced contains a requirement that Scottish Ministers must include in the strategic management plan “objectives, priorities and policies in relation to management of the Estate” including the acquisition of new assets but does not specifically require details of proposals for disposals of assets to be included. This amendment would expressly require such details to be provided. We consider it appropriate that as acquisition of new assets is specifically referred to, it is appropriate that disposals of assets are subject to the same requirements.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 20, page 10, line 8

Leave out <and> and insert –

<() in the case of the first plan, before the end of the period of one year beginning with the day on which this section comes into force

() in any other case, following a review which results in the revision of strategic plan under section 21(1), and>

Effect

This amendment provides a time frame for the laying of the strategic management plan before the Scottish Parliament.

Reason

This would provide enhanced accountability of Scottish Ministers by providing a time frame for laying of the strategic management plan before the Scottish Parliament. The purpose of such a requirement is to ensure that such a plan can be considered timeously by the Parliament.

SCOTTISH CROWN ESTATE BILL
AMENDMENT TO BE MOVED AT STAGE 2

In section 21, page 10, line 21

Add at end –

<and provide the reasons for that decision>

Effect

The amendment would require Scottish Ministers to provide reasoning for concluding that the strategic plan does not require to be reviewed.

Reason

We consider that such an amendment would enhance the accountability requirements upon Scottish Ministers by requiring them to lay before the Scottish Parliament the reasons for concluding that the strategic plan does not require to be reviewed.