

Written submission from Highland Council

Introduction

The Highland Council welcomes the opportunity to contribute to the Committee's consideration of the UK Government's Draft Legislative Clauses in response to the Smith Commission as it relates to the Crown Estate in Scotland

The Committee may be aware that the Highland Council has campaigned for major reform of the Crown Estate in Scotland for many years and has sought a strategic shift in the ownership of marine resources by working with the Scottish Government and pressing the UK Government to conduct a full review of the Crown Estates.

In February 2007 Highland Council (with its Highland and Island local authority partners and Highlands and Islands Enterprise published the report titled "The Crown Estate in Scotland – New Opportunities for Public Benefits". The report did much to clarify the position of the Crown Estate in Scotland and to identify alternative management options that would deliver additional public benefit. The report recommended that:

'the secretary of state for Scotland and Scottish Ministers should, given the changed circumstances of devolution, implement an appropriately constituted review to ensure that the property, rights and assets which make up the Crown Estate in Scotland contribute more fully to the delivery of Scottish Executive policies and well-being of the people of Scotland'

Since the publication of that report the Highland Council has contributed to a number of consultations and parliamentary evidence gathering opportunities at both a Scottish and UK level.

Background to the Crown Estate

The Crown Estate consists of the Crown property, rights and interests managed by the Crown Estate Commission. The Crown Estate Commission manages the Crown Estate on behalf of the nation and all net surplus revenue from the Estate goes to the Treasury for general government expenditure.

The Crown Estate in Scotland consists of ancient possessions of the Crown in Scotland and some properties bought on its behalf during the 20th century:-

1. main ancient ownership of Scotland's seabed out to the 12 nautical mile limit, property rights over the continental seabed out to the 200 mile limit (excluding oil, gas and coal) and ownership of around half the length of Scotland's foreshore.
2. Other ancient rights to salmon fishing, natural occurring oysters and mussels and to mine gold and silver and ownership of two small areas of urban land.
3. Modern: ownership of four rural estates and three urban commercial properties.

The most significant ancient possession of the Crown in Scotland is its ownership of Scotland's territorial seabed, as extended from 3 to 12 nautical miles by legislation in 1987. Scotland's seabed accounts for just over half of its total territorial area.

Smith Commission

Lord Smith published his report on further devolution of powers to the Scottish Parliament on 27 November, 2014, with one of the recommendations being the devolution of the Crown Estate in Scotland

The Smith Commission agreement on the Crown Estate states that:

'Responsibility for the management of the Crown Estate's economic assets in Scotland, and the revenue generated from these assets, will be transferred to the Scottish Parliament. This will include the Crown Estate's seabed, urban assets, rural estates, mineral and fishing rights, and the Scottish foreshore for which it is responsible.

Following this transfer, responsibility for the management of those assets will be further devolved to local authority areas such as Orkney, Shetland, Na h-Eilean Siar or other areas who seek such responsibilities. It is recommended that the definition of economic assets in coastal waters recognises the foreshore and economic activity such as aquaculture.

The Scottish and UK Governments will draw up and agree a Memorandum of Understanding to ensure that such devolution is not detrimental to UK-wide critical national infrastructure in relation to matters such as defence & security, oil & gas and energy, thereby safeguarding the defence and security importance of the Crown Estate's foreshore and seabed assets to the UK as a whole.

Responsibility for financing the Sovereign Grant will need to reflect this revised settlement for the Crown Estate'

On 22 January, 2015 the UK Government published draft legislative clauses which would give effect to the recommendation to devolve the Crown Estate.

Issues to Consider

There are a number of areas that the Council would wish to have clarification over, these include

1. What assets and revenues will be devolved and who will have responsibility for those assets and revenues
2. Clarification over para 5.5.9 of the draft legislative clauses

"The Scottish and UK Governments will draw up a MoU. The MoU will include further detail on the legal protections for defence or national security as well as providing that the transfer of management responsibility for the Crown Estate is not detrimental to UK-wide critical national infrastructure in relation to matters such as oil and gas, telecommunications and energy, thereby safeguarding the importance of the Crown

Estate's foreshore and seabed assets to the UK as a whole. The MoU will establish a framework of co-operation between its signatories, delivering the Smith Commission Agreement's recommendations whilst securing UK-wide provisions".

3. What will this legal protection for *defence or national security* entail
4. *How will the protection of critical national infrastructure in relation to matters such as oil and gas, telecommunications and energy be delivered and how will that impact on a devolved Crown Estate*
5. *Clarify the meaning of the statement "...thereby safeguarding the importance of the Crown Estate's foreshore and seabed assets to the UK as a whole".*
6. Clarification from the Scottish Government as to how they will further devolve the Crown Estate to local authorities and how the assets and revenues will be devolved.

Highland Council's Position

The Highland Council has long pressed for the devolution of the Crown Estate in Scotland and this is one of the commitments within the current Administration's Programme for the Council which states that *"the Council wishes to see Crown Estate revenues directed to local coastal communities and management of the Crown Estate transferred from Crown Estate Commissioners to the Scottish Parliament and local communities as appropriate."*

The Highland Council is keen to engage with the Crown Estate and the Scottish Government to develop a new framework for managing the assets and revenue of the Crown Estate in a way that benefits the community in Highland.

Conclusion

The Council welcomes the proposal contained in the Smith Commission for the devolution of the Crown Estate and hopes that the Rural Affairs, Climate Change and Environment Committee will be able to obtain clarification on the points that are raised in this submission.