

Cabinet Secretary for Rural Affairs, Food and the Environment
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Rob Gibson MSP
Convener
Rural Affairs, Climate Change and Environment Committee
c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP



3 December 2015

Dear Rob,

Following my appearance at the Committee's evidence session on the Crown Estate in June and my subsequent letter of 27 July 2015, I thought it would be helpful to provide an update on the process to devolve the management and revenue of the Crown Estate in Scotland.

Scotland Bill

I have previously highlighted our view that the UK Government's Scotland Bill clauses on the Crown Estate are needlessly complex. The UK Government's approach does not deliver the legislative devolution of the revenue of the Crown Estate in Scotland, excludes significant economic assets and constrains the devolved management of the assets.

The Scottish Government has continued to press the UK Government for amendments to the Bill. One aim was to clarify that the assets can be managed by more than one manager so that any further devolution is not constrained by the Bill. In addition, for the clause to be amended to make clear that a new body could be established by Scottish Ministers using the order in council power in the Bill. This could be used to put in place interim arrangements for the assets to be managed by a single entity as a going concern in advance of full consultation on a new long term framework. Amendments on these lines were made at Report stage.

However, I believe more work is needed on the Bill to ensure that appointments can be made to a new body established under the order in council powers. In addition, we continue to seek other amendments, including amendment of the reservations on revenues to ensure legislative competence for the Scottish Parliament. The First reading at the Lords took place on 10 November and the Committee session is scheduled for 8 December.

Draft Crown Estate Transfer Scheme and draft Memorandum of Understanding

In advance of Report Stage at the House of Commons, the UK Government published on 4 November the draft 'Crown Estate Transfer Scheme' and a draft 'Memorandum of Understanding between the UK Government and Scottish Government following the devolution of the Crown Estate in Scotland'. The Scottish Government were not involved in the drafting of these documents.

Scottish Government officials have highlighted a range of issues with the documents as drafted, including the significant constraints on devolution. In addition, that the draft transfer scheme is not consistent with the Smith Commission, which recommended that the Scottish and UK Governments agree a Memorandum of Understanding - rather than statutory provision – on issues the UK Government claim affect UK-wide critical national infrastructure. We also have a number of specific concerns about the documents as currently drafted.

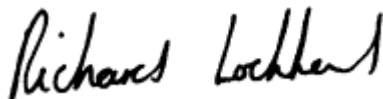
Other issues

The Scottish Government's stakeholder advisory group on the Crown Estate has been established and I chaired the first meeting on 16 September. The group brings together diverse interests, who will provide a valuable contribution to identify and explore options for the interim arrangements, and for the future framework of the management of Crown Estate assets in Scotland. The range of comments and views expressed by stakeholder representatives will be reflected on, and considered more widely as part of the group's on-going discussions.

The implementation of the Smith Commission's recommendation on the Crown Estate through Clause 34 of the Scotland Bill requires substantial planning and preparatory work. I outlined to the Committee that we need interim arrangements, through a single entity, to manage the assets following devolution until a new framework is consulted on and legislated for at the Scottish Parliament. The timescales in the short term are dependent on the Westminster legislative process, and we are continuing to progress work with the Crown Estate on the interim arrangements, while also recognising the need to plan for the longer term framework.

I am copying this letter to David Mundell, Secretary of State for Scotland and Damian Hinds, Exchequer Secretary to the Treasury.

I hope this update is helpful.



RICHARD LOCHHEAD