

# The Crown Estate: yet another quango

## FAST FACTS

- The Scotland Act 2016 devolved control of the Crown Estate to the Scottish Parliament.
- The Act stipulates that the responsibilities must be devolved to a single entity; therefore any devolution to local authorities must follow the initial passing of powers to Holyrood.
- The Smith Commission said that the Crown Estate responsibilities should, in turn, be devolved down to the relevant local authorities.
- The SNP's 2016 manifesto was less specific about local authorities, but did state that it wanted coastal and island communities to have control.
- The Scottish Government is currently consulting on the interim administration arrangements. However, it has stated that its intention is to create a new quango to manage the Crown Estate in this interim period.
- Furthermore, it has not confirmed a timetable for how long the interim arrangements will last.
- Reform Scotland has welcomed the SNP's commitment to pass powers beyond Holyrood, but would like a clearer idea of what "interim" means and reassurance that the powers will be devolved to councils by the end of this Parliament.
- Reform Scotland has called on the Scottish Government to manage the responsibilities directly in the short term, instead of creating a new quango as proposed.

## CONTEXT

The Scotland Act 2016 devolved responsibility for the Crown Estate to the Scottish Government. Section 36 of the Act states:

*"The Treasury may make a scheme transferring on the transfer date all the existing Scottish functions of the Crown Estate Commissioners ("the Commissioners") to the Scottish Ministers or a person nominated by the Scottish Ministers ("the transferee")."*

The Scottish Government is currently consulting about the interim body that will be set up to manage the Crown Estate assets in Scotland once they are devolved.

This briefing is based on Reform Scotland's response to that consultation.

## BACKGROUND

The Crown Estate belongs to the reigning monarch for the duration of his or her reign, but it is not their private property and cannot be sold by the monarch. The revenues don't belong to the monarch either. Instead any surplus revenue from the estate is paid to the Treasury. The Crown Estate's website explains its Scottish portfolio<sup>1</sup>:

*"Our Scotland Portfolio consists of four rural estates, mineral and salmon fishing rights, about half of the coastal foreshore and almost all of the seabed. We have a significant role in supporting aquaculture, marine leisure, ports and*

<sup>1</sup> <http://www.thecrownestate.co.uk/our-business/in-scotland/>

*harbours and offshore renewable energy.*

*“Our role is to make sure that the land and property within the Scotland Portfolio is well managed and sustainably worked, developed and enjoyed to deliver the best value over the long term. All our annual revenue profit is paid to the UK Government (pending transfer of The Crown Estate’s management role in Scotland to Scottish Government).”*

The Smith Commission set out that once devolved to Holyrood, responsibility for the Crown Estate should then be further devolved to the relevant local authorities.

The SNP indicated a willingness to further devolve responsibilities to councils in its 2016 manifesto:

*“We will keep the Crown Estate as an ongoing entity until further public consultation on its future has taken place and ensure a smooth transition for tenants of the Crown Estate’s four rural estates at Glenlivet, Applegirth, Whitehill and Fochabers.*

*“We will ensure that Scotland’s coastal and island communities get to control and decide how to invest 100 per cent of net revenues raised from Crown Estate marine assets out to 12 nautical miles.”*

While it should be noted that the manifesto does not give the specific commitment of devolution to local authorities set out in the Smith Commission, there is a welcome willingness to pass control beyond Holyrood.

**The Scottish Government notes in its consultation that the interim management of the Crown Estate could either be undertaken by the Scottish Government or a new quango. The Scottish Government has chosen to pursue the quango route, but there is no explanation of why that is preferable to direct management, or a discussion of the two options.**

The consultation suggests that one of the reasons for creating a new body corporate is that the Crown Estate is currently managed by a body corporate. However, the document also states that the Scottish Government believes there needs to be reform of the administration of the Crown Estate. Therefore, there is no reason to simply replicate the body that currently manages the responsibilities.

The consultation gives no indication of what interim means, and what the likely timetable is for devolution beyond Holyrood. It simply states *“that it continues to be so until such time as decisions are made on the long-term future”*.

## **POLICY RECOMMENDATIONS**

**The Crown Estate should not be devolved to a new quango and instead should pass directly to Scottish Ministers, remaining the direct responsibility of the Scottish Government until it can be devolved to local authorities.**

Although the Scotland Act 2016 does not allow the powers to be devolved directly to local authorities as they have to be devolved to a single entity, it states:

*“The Treasury may make a scheme transferring on the transfer date all the existing Scottish functions of the Crown Estate Commissioners (“the Commissioners”) to the Scottish Ministers or a person nominated by the Scottish Ministers (“the transferee”).”*

In other words, the powers can pass to Scottish Ministers. The consultation makes it clear that the Scottish Government intends to appoint members of the proposed quango, as well as having the power to direct the body in the exercise of its functions. Therefore, Reform Scotland does not understand why these functions could not become the responsibility of a new Scottish Government department, reporting directly to a Scottish Minister.

Not only would this improve accountability, transparency and openness, but it also makes sense given that the arrangements are only supposed to be temporary. If this is to be an interim situation, then surely it makes sense to keep the powers ‘in-house’, as opposed to creating a brand new body that should not be in existence for very long. It would also give the Scottish Government a more direct role in managing the Crown Estate, an insight which could help contribute towards producing the longer term structure.

Paragraph 14 of the consultation points out that the job of managing the Crown Estate could be done by the Scottish Government directly and offers no reason as to why it is not pursuing that approach. Reform Scotland believes that this route, as opposed to creating a quango, should be the administration model that the Scottish Government chooses.

**The Scottish Government needs to set out a timetable for devolving the Crown Estate to local authorities. “Until such time” is far too vague and open-ended.**

It is regrettable that there is no indication in the consultation of when the Scottish Government is aiming to reach a long-term solution. For example, is it the intention of the Scottish Government to reach a long-term solution before the end of this Parliament? Reform Scotland believes that the powers should certainly be devolved down to local authorities ahead of the next election and would like the Scottish Government to confirm about the longer-term timing. The interim solution should only be a very short term solution to allow for the devolution of the Crown Estate to a single entity, as stipulated in the Scotland Act 2016.

Reform Scotland believes that the powers should be transferred to the relevant local authorities as soon as possible after the transfer date. In order for this to be achieved, we would urge the Scottish Government to start the necessary consultation to begin that process.