

SCOTTISH CROWN ESTATE ACT 2019

EXPLANATORY NOTES

THE ACT

Part 3 – Management of Scottish Crown Estate assets

Ministerial directions

55. [Section 37](#) confers a general power of direction on the Scottish Ministers in relation to the exercise of managers' functions and specifies that directions must be in writing and be published, as must any revocation of such a direction.
56. [Section 38](#) requires managers to have regard to written guidance given by the Scottish Ministers (which will be published), as it is expected that several matters be more appropriately set out in guidance than in legislation. For example, the Scottish Ministers may choose to provide guidance to managers regarding the duty under section 11(1) to obtain market value for the transfer of ownership etc. of a Scottish Crown Estate asset, and the discretion to depart from that duty under subsection (2) of that section, which also requires managers to have regard to the likely effect of such a departure on the overall value of the Scottish Crown Estate as required under subsection (3) of that section.
57. Provision is made in section 39 for the Scottish Ministers to delegate their functions under certain sections of this Act to Crown Estate Scotland. Such delegation must be in writing. The sections are those relating to the preparation and review of strategic plans (under sections 22 and 23), the laying a publication of annual reports (under section 27) and the preparation and submission for audit of consolidated accounts (under section 35). Subsections (3) and (4) modify how certain sections of the Act operate when a delegation under section 39 is in place in respect of the Scottish Ministers' functions under section 27(1) and section 35(1). These ensure the legislation works as intended, for instance that annual reports are sent by managers to Crown Estate Scotland rather than to the Scottish Ministers.
58. It is expected that, from time to time, the Scottish Ministers may wish to obtain information from, or take the advice of, managers of Scottish Crown Estate assets in respect of the asset or its management. Section 40 obliges managers to provide that information or advice if it is required by the Scottish Ministers.
59. [Section 41](#) allows the Scottish Ministers to undertake research and provide resources to managers (actions which are currently undertaken by Crown Estate Scotland, and which Crown Estate Scotland may continue to undertake). "Resources" could include staff support, support services and capacity building.