

SCOTTISH CROWN ESTATE ACT 2019

EXPLANATORY NOTES

THE ACT

Part 4 – General

Schedule 2: Consequential and Minor Modifications

64. *Schedule 2*, which is introduced by section 44, makes provision for the amendment of various enactments as a consequence of the provisions of the Act, and makes another minor amendment of the Crown Estate Scotland Order.

Paragraph 1 – Scotland Act 2016

65. This paragraph repeals section 36(7) of the Scotland Act 2016 (“the 2016 Act”) which applies (with modifications) the Crown Estate Act 1961 (“the 1961 Act”) to Crown Estate Scotland in the exercise of its functions which transferred from the Crown Estate Commissioners by virtue of the Transfer Scheme. In consequence of the Act, which makes provision relating to the management of the Scottish Crown Estate and the exercise of the Crown Estate Scotland’s functions, the 1961 Act will not apply in relation to Crown Estate Scotland when this paragraph comes into force.

Paragraph 2 – The Crown Estate Scotland Order 2017

66. This paragraph amends various provisions of the Crown Estate Scotland Order, principally in consequence of the Act.
67. Article 8 of the Crown Estate Scotland Order sets out the circumstances in which the Scottish Ministers may remove a member of Crown Estate Scotland, one of which is when a member becomes insolvent. Paragraph 2(2) of this schedule replaces an incorrect reference to a person making a “composition order [with creditors]” with a reference to a person making a “composition or arrangement [with creditors]” (as being insolvent for these purposes).
68. Sub-paragraph (3) amends article 12(2)(b) of the Crown Estate Scotland Order which prevents Crown Estate Scotland from authorising another person from preparing its statements of account. The reference to these statements being prepared under section 2(5) of the 1961 Act is replaced with a reference to those statements being prepared under section 34(1)(b) of the Act in consequence of the repeal of section 36(7) of the 2016 Act discussed above (in relation to paragraph 1 of this schedule) and the provision in section 34(1)(b) of the Act requiring Crown Estate Scotland to prepare annual statements of accounts.
69. Sub-paragraph (4) adds a new paragraph (1A) to article 17 of the Crown Estate Scotland Order providing that Crown Estate Scotland may not borrow money other than from the Scottish Ministers for consistency with section 32(2) of the Act (which applies to other managers of Scottish Crown Estate assets, other than the Scottish Ministers themselves).

*These notes relate to the Scottish Crown Estate Act 2019
(asp 1) which received Royal Assent on 15 January 2019*

70. Sub-paragraph (5) amends article 18 of the Crown Estate Scotland Order so that, as amended, it will require Crown Estate Scotland to prepare and send to the Scottish Ministers its annual report no later than 3 months after the end of each financial year. The annual report must set out how its activities during the year have contributed to the objectives set out in its corporate plan which is prepared under article 19 of the Crown Estate Scotland Order (see sub-paragraph (5)(a), (b) and (f)). In addition, article 18(2) of the Crown Estate Order is revoked in consequence of section 27(1) of the Act, which requires the Scottish Ministers to lay a copy of Crown Estate Scotland's annual report before the Scottish Parliament (see sub-paragraph (5)(c)). Furthermore, article 18(3) of that Order is amended by sub-paragraph (5)(d) to provide that Crown Estate Scotland may publish its annual report but not until a copy of it has been laid before the Scottish Parliament, noting that under section 27(3) of the Act the Scottish Ministers must in any event publish a copy of Crown Estate Scotland's annual report after laying it before the Scottish Parliament. Sub-paragraph (5)(e) amends article 18(4)(a) of the Crown Estate Scotland Order so that Crown Estate Scotland must additionally include a list of any directions given by the Scottish Ministers under section 37(1) of the Act in each of its annual reports, in consequence of that section of the Act.
71. Sub-paragraph (6) revokes article 20 of the Crown Estate Scotland Order. Article 20, which further modifies the 1961 Act as it applies to Crown Estate Scotland, is spent in consequence of the repeal of section 36(7) of the 2016 Act by paragraph 1 of this schedule.