



# Scotland Act 1998

## 1998 CHAPTER 46

### PART V

#### MISCELLANEOUS AND GENERAL

#### *[<sup>F1</sup>The Crown Estate*

#### Textual Amendments

**F1** S. 90B and cross-heading inserted (23.3.2016) by [Scotland Act 2016 \(c. 11\)](#), ss. **36(1)**, 72(1)(b)

#### **90B The Crown Estate**

- (1) 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 ”).
- (2) The existing Scottish functions are the Commissioners' functions relating to the part of the Crown Estate that, immediately before the transfer date, consists of—
  - (a) property, rights or interests in land in Scotland, excluding property, rights or interests mentioned in subsection (3), and
  - (b) rights in relation to the Scottish zone.
- (3) Where immediately before the transfer date part of the Crown Estate consists of property, rights or interests held by a limited partnership registered under the Limited Partnerships Act 1907, subsection (2)(a) excludes—
  - (a) the property, rights or interests, and
  - (b) any property, rights or interests in, or in a member of, a partner in the limited partnership.
- (4) Functions relating to rights within subsection (2)(b) are to be treated for the purposes of this Act as exercisable in or as regards Scotland.

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*Changes to legislation: There are currently no known outstanding effects for the  
Scotland Act 1998, Cross Heading: The Crown Estate. (See end of Document for details)*

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- (5) The property, rights and interests to which the existing Scottish functions relate must continue to be managed on behalf of the Crown.
- (6) That does not prevent the disposal of property, rights or interests for the purposes of that management.
- (7) Subsection (5) also applies to property, rights or interests acquired in the course of that management (except revenues to which section 1(2) of the Civil List Act 1952 applies).
- (8) The property, rights and interests to which subsection (5) applies must be maintained as an estate in land or as estates in land managed separately (with any proportion of cash or investments that seems to the person managing the estate to be required for the discharge of functions relating to its management).
- (9) The scheme may specify any property, rights or interests that appear to the Treasury to fall within subsection (2)(a) or (b), without prejudice to the functions transferred by the scheme.
- (10) The scheme must provide for the transfer to the transferee of designated rights and liabilities of the Commissioners in connection with the functions transferred.
- (11) The scheme must include provision to secure that the employment of any person in Crown employment (within the meaning of section 191 of the Employment Rights Act 1996) is not adversely affected by the transfer.
- (12) The scheme must include such provision as the Treasury consider necessary or expedient—
  - (a) in the interests of defence or national security,
  - (b) in connection with access to land for the purposes of telecommunications, or with other matters falling within Section C10 in Part 2 of Schedule 5,
  - (c) for securing that the management of property, rights or interests to which subsection (5) applies does not conflict with the exploitation of resources falling within Section D2 in Part 2 of Schedule 5, or with other reserved matters in connection with their exploitation, and
  - (d) for securing consistency, in the interests of consumers, in the management of property, rights or interests to which subsection (5) applies and of property, rights or interests to which the Commissioners' functions other than the existing Scottish functions relate, so far as it affects the transmission or distribution of electricity or the provision or use of electricity interconnectors.
- (13) Any transfer by the scheme is subject to any provision under subsection (12).
- (14) The scheme may include—
  - (a) incidental, supplemental and transitional provision;
  - (b) consequential provision, including provision amending an enactment, instrument or other document;
  - (c) provision conferring or imposing a function on any person including any successor of the transferee;
  - (d) provision for the creation of new rights or liabilities in relation to the functions transferred.
- (15) On the transfer date, the existing Scottish functions and the designated rights and liabilities are transferred and vest in accordance with the scheme.

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- (16) A certificate by the Treasury that anything specified in the certificate has vested in any person by virtue of the scheme is conclusive evidence for all purposes.
- (17) The Treasury may make a scheme under this section only with the agreement of the Scottish Ministers.
- (18) The power to make a scheme under this section is exercisable by statutory instrument.
- (19) The power to amend the scheme is exercisable so as to provide for an amendment to have effect from the transfer date.
- (20) In this section—
  - “ designated ” means specified in or determined in accordance with the scheme;
  - “ the transfer date ” means a date specified by the scheme as the date on which the scheme is to have effect. ]

**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: The Crown Estate.