
STATUTORY INSTRUMENTS

2017 No. 524

The Crown Estate Transfer Scheme 2017

Citation, commencement and extent

- 1.—(1) This Scheme may be cited as the Crown Estate Transfer Scheme 2017.
- (2) This Scheme comes into force on the day after the day on which it is made.
- (3) Subject to sub-paragraph (4), this Scheme extends to England and Wales, Scotland and Northern Ireland.
- (4) An amendment made by Schedule 5 has the same extent as the enactment to which it relates.

Interpretation

2. In this Scheme—

“the 1998 Act” means the Scotland Act 1998;

“designated liabilities” means the liabilities specified in Schedule 2;

“designated rights” means the rights specified in Schedule 2;

“exclusive economic zone” has the same meaning as in section 41(3) of the Marine and Coastal Access Act 2009⁽¹⁾ but does not include any part of the Scottish zone;

“foreshore” means the land owned by Her Majesty which lies between the mean high water and mean low water but does not include any part of Scotland;

“manager”, in relation to a Scottish asset, means—

- (a) the transferee, or
- (b) where another person exercises functions relating to the asset which were previously exercised by the transferee, that person;

“relevant matters” means—

- (a) in relation to any period before the transfer date⁽²⁾, the existing Scottish functions,
- (b) in relation to any period on or after the transfer date, the manager’s functions relating to the Scottish assets,
- (c) the Scottish assets, and
- (d) the designated rights and designated liabilities;

“Scottish assets” means any property, rights and interests to which section 90B(5) of the 1998 Act applies;

“Scottish coastal waters” means those parts of Scotland which are internal waters or are in the territorial sea of the United Kingdom;

“Scottish foreshore” means that land in Scotland owned by Her Majesty which lies between the high and low water marks of ordinary spring tides; and

⁽¹⁾ 2009 c.23.

⁽²⁾ In this Scheme references to “the transfer date” are references to the date on which the Scheme is to have effect; see section 90B(20) of the 1998 Act. That date is specified by paragraph 3 as the day on which the Scheme comes into force.

“transferee” means Crown Estate Scotland (Interim Management)(3) (to whom the existing Scottish functions are transferred by paragraph 3 of this Scheme).

Transfer date and transferee

3. This Scheme transfers the existing Scottish functions to Crown Estate Scotland (Interim Management) on the day on which it comes into force.

Scottish assets

4. Schedule 1 (Scottish assets) specifies the property, rights and interests that as at the transfer date appear to the Treasury to be the Scottish assets.

Designated rights and designated liabilities

5. The rights and liabilities specified in Schedule 2 (designated rights and designated liabilities) transfer to the transferee on the transfer date.

Protection of employment

6. Schedule 3 (protection of employment) makes provision to ensure that the employment of any person in Crown employment is not adversely affected by the transfer.

Protection of UK-wide interests

7. Schedule 4 (protection of UK-wide interests) makes provision in relation to defence and national security, telecommunications, the exploitation of oil and gas and electricity infrastructure.

Consequential amendments

8. Schedule 5 (consequential amendments) contains amendments to enactments which are consequential to this Scheme.

Statements of account and audit

9.—(1) In relation to the relevant matters and for the period starting on 1st April 2016 and ending immediately before the transfer date, the Commissioners(4) must prepare in such form as the Treasury may direct—

- (a) a statement of income account, and
- (b) a statement of capital account.

(2) The Commissioners must send the statements to the Comptroller and Auditor General no later than one month after the transfer date.

(3) The Comptroller and Auditor General must—

- (a) examine and certify the statements,
- (b) issue a report, and
- (c) send the statements and the report to the Commissioners and the transferee.

(3) Crown Estate Scotland (Interim Management) (in Gaelic, Oighreachd a’ Chrùin Alba (Stiùireadh Eadar-amail)) was established by the Crown Estate Scotland (Interim Management) Order 2017 (S.S.I. 2017/36) and has been nominated by the Scottish Ministers under section 90B(1) of the 1998 Act as the transferee for the purposes of this Scheme.

(4) In this Scheme references to “the Commissioners” are references to the Crown Estate Commissioners; see section 90B(1) of the 1998 Act.

(4) The Commissioners must lay the statements and the report before each House of Parliament and the Scottish Parliament.

Treatment of certain receipts: receipts relating to the relevant matters only

10.—(1) This paragraph applies to any sums—

- (a) which are received by the Commissioners or the manager on or after the transfer date, and
- (b) which consist solely of amounts which relate to any of the relevant matters.

(2) If the sums are mentioned in the audited statements, the sums must be dealt with in accordance with any applicable treatment specified in those statements.

(3) If the sums are not mentioned in the audited statements or if no applicable treatment is specified in those statements—

- (a) the Commissioners must transfer to the manager any sums which relate to any period on or after the transfer date,
- (b) the manager must transfer to the Commissioners any sums which relate to any period before the transfer date, and
- (c) otherwise the recipient may retain the sums.

(4) If the recipient fails to comply with sub-paragraph (2), (3)(a) or (3)(b), the person to whom the sums are owed may recover those sums as a civil debt.

(5) In this paragraph, “audited statements” means the statements mentioned in paragraph 9(1) as certified by the Comptroller and Auditor General under paragraph 9(3).

(6) For the purposes of this paragraph sums are “mentioned” in the audited statements if—

- (a) they are expressly referred to in those statements, or
- (b) they fall within a description which is expressly referred to.

Treatment of certain receipts: receipts relating to the relevant matters and the Crown Estate

11.—(1) This paragraph applies to any sums—

- (a) which are received by the Commissioners or the manager on or after the transfer date; and
- (b) which include both—
 - (i) amounts relating to any of the relevant matters, and
 - (ii) amounts relating to any Crown Estate assets or any other rights and liabilities of the Commissioners.

(2) The recipient must apportion the sums as between—

- (a) the Scottish assets and the designated rights and designated liabilities, and
- (b) the Crown Estate assets and the rights and liabilities of the Commissioners.

(3) After any apportionment under sub-paragraph (2)—

- (a) the Scottish sums must be dealt with in accordance with paragraph 10(2) and (3) (and accordingly paragraph 10(4) applies to those sums); and
- (b) the Crown Estate sums must be—
 - (i) retained by the Commissioners, or
 - (ii) transferred to the Commissioners if the manager is the recipient.

(4) If the manager fails to comply with sub-paragraph (3)(b)(ii), the Commissioners may recover the sums as a civil debt.

(5) In this paragraph—

“Crown Estate assets” means any property, rights and interests which form part of the Crown Estate;

“Crown Estate sums” means the sums which are properly apportioned in accordance with sub-paragraph (2)(b); and

“Scottish sums” means the sums which are properly apportioned in accordance with sub-paragraph (2)(a).

Requirement to take reasonable steps to secure the payment of certain sums

12.—(1) This paragraph applies where—

(a) a sum is due to be paid to the manager and on receipt the manager would be required to transfer the sum to the Commissioners under either paragraph 10 or 11, or

(b) a sum is due to be paid to the Commissioners and on receipt the Commissioners would be required to transfer the sum to the manager under either of those paragraphs.

(2) The person to whom the sum is due must take such reasonable steps as are necessary to secure the payment of that sum.

Sums paid in error to the manager

13.—(1) This paragraph applies where a sum which is due to the Commissioners is paid in error to the manager.

(2) As soon as reasonably practicable, the manager must transfer the sum to the Commissioners.

(3) If the manager fails to comply with sub-paragraph (2), the Commissioners may recover the sum as a civil debt.

Supplementary

14.—(1) Anything (including legal proceedings) which as at the transfer date is in the process of being done by or in relation to the Commissioners may, so far as it relates to any of the relevant matters, be continued by or in relation to the transferee.

(2) Anything done (or having effect as if done) by or in relation to the Commissioners in connection with any of the relevant matters has effect on and after the transfer date as if done by or in relation to the transferee.

(3) Subject to the express provision made in Schedule 5, any enactment or instrument passed or made before the transfer date has effect, so far as is necessary for the purposes of or in consequence of the transfer or the exercise of functions that are or relate to relevant matters, as if references to (and references which are to be read as references to) the Commissioners were references to the manager.

(4) Notwithstanding any provision to the contrary in any instrument, sub-paragraphs (1) to (3) and paragraph 5 shall not—

(a) require any additional formality in order to have full effect;

(b) give rise to any requirement for consent, authorisation, or permission; or

(c) trigger any option, right of variation, right of forfeiture, right of termination, right of pre-emption, right to first refusal, right to payment, right to demand payment or any other benefit.

(5) This Scheme does not affect the validity of anything done (or having effect as if done) by or in relation to the Commissioners before the transfer date.

(6) In this paragraph, “instrument” includes Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, licences, authorisations, consents, approvals, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

Publicity

15. No later than one month after the transfer date, the transferee must publish notice of the transfer in the Edinburgh Gazette and the London Gazette in such form as the transferee considers appropriate.

31st March 2017

Guto Bebb
Andrew Griffiths
Two of the Lords Commissioners of Her
Majesty’s Treasury