

**HOUSE OF COMMONS SCOTTISH AFFAIRS COMMITTEE –
THE CROWN ESTATE IN SCOTLAND**

1.0 SUMMARY

1.1 In January 2011 the Scottish Affairs Committee launched their inquiry into the Scotland Bill with a specific focus on the provision in the Bill for increased tax raising and borrowing powers for the Scottish Parliament. As a consequence of the volume of submissions that were received which specifically related to the Crown Estate Commission (CEC) and the issue of tax raising and borrowing powers, the Committee decided to launch a separate inquiry into the Crown Estate in Scotland.

1.2 The formal terms of reference for the inquiry were published on 12 May 2011 and related to:

- The management and governance of the Crown Estate in Scotland
- The role and mandate of the CEC and
- The interaction between the CEC and UK, devolved and local government

In addition the inquiry invited responses to a number of specific questions relating to the CEC. The Committee also visited Inverness, Orkney, Shetland, Caithness, Stirling, Tiree, Barra, the Isle of Lewis, Glasgow and Edinburgh and took evidence from a number of individuals and organisations including the Highlands and Islands Convenors

1.3 The purpose of this report is to inform members as to the findings of the inquiry by the House of Commons Scottish Affairs Committee into the Crown Estate in Scotland.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that Members:
- (i) Note the contents of this report.

3.0 BACKGROUND

3.1 The Official report by the Scottish Affairs Committee was published on Monday 19 March 2012. The report examines the Crown Estate Commissioner's (CEC's) management of Crown estate property, rights and interests which make up the Crown Estate (CE) in Scotland. For the purposes of the inquiry the CEC's operations are split into two categories:

- Ancient possessions/responsibilities and
- Modern activities relating to the buying and selling and management of property and land

3.2 The report recognises that there are major issues relative to the CEC's management of its responsibilities, particularly in relation to the seabed and foreshore (these were not found to apply to the urban and rural estate). The issues identified include:

- lack of accountability, communication and consultation with communities
- inappropriateness of the CEC's statutory remit for its responsibilities in the marine environment
- cash leakage from the local economies and
- other adverse impacts arising from the way the CEC operates

These were identified together with a limited benefit in Scotland from the CEC's involvement.

3.3 In conclusion the report states that the only way to address these issues is for the CEC's responsibility for the administration and revenues of the ancient Crown property, rights and interest in Scotland to be ended, these responsibilities to be devolved and then decentralised as far as possible. The report recognises that simple centralising these responsibilities in Edinburgh would be insufficient and would not address the fundamental problems identified.

3.4 The inquiry concludes that devolution to Holyrood should be conditional upon an agreement between the Secretary of State for Scotland and the Scottish Government on how such a scheme of subsidiarity to local authorities and local community levels should be implemented.

3.5 It is recommended that the CEC continue to operate as a commercial developer on a UK wide basis

3.6 The report recognises that the basis for the arrangements as regards the Scottish Crown property rights and responsibilities requires further consultation however it is stated in the report that this consultation should proceed on the basis of the proposal's set out by the Highlands

and Islands local authorities in regard to providing a clear framework on which to base discussions relative to future arrangements.

3.3 The Scottish Affairs Committee have recommendation that:

“the Secretary of State for Scotland should announce the UK Government’s commitment to devolve the CEC’s marine and ancients rights and responsibilities in Scotland, conditional on a clear commitment to, and a detailed agreement on, the further decentralisation to the maximum extent possible of the CEC’s responsibilities to local authority and local community levels and that he makes the necessary legislative provision to this effect.”

3.4 The above is based on a two phased decentralisation approach and there is recognition that there would be a period of time between the decision to devolve responsibility of the CEC and this coming into effect, this is on the assumption that the Secretary of State and the UK Government accept the recommendation of the Committee.

3.5 The Committee specifically recommended that:

- the CEC’s responsibilities for the Crown foreshore in Scotland be devolved to the local authority.
- that any devolution settlement over the CEC’s foreshore responsibilities should enable Trust Ports, public sector harbour authorities and appropriate community landownership bodies, to take over the ownership of the Crown foreshore.
- the CEC’s responsibilities for Crown property rights over Scotland’s territorial seabed and adjoining continental shelf area and the revenues raised from these rights be devolved to the Scottish Parliament .
- whatever devolved arrangements are put in place there should be a presumption against the disposal of Crown seabed except in the instance of seabed land reclamation and the immediate harbour area of Trust Ports, public sector harbour authorities and community owned companies which operate harbours
- whilst there is recognition that with the devolution of the CEC’s responsibilities for the seabed in Scotland, the integrated system of marine planning, regulations and leasing over the use of the seabed must flow from the centre outwards it is recommended, as a matter of principle, that the allocation of the revenues from that use should flow the other way. This would mean that the areas where the revenues are being earned should benefit first before revenues flow up to a wider geographical scale. Whilst

further discussion is necessary on the proportion of revenue to be allocated at each level this should be strongly weighted in favour of the local community. It is recommended that the framework for further discussions relative to this be based on that proposed by the Highlands and Islands local authorities.

- that the CEC's responsibilities for the administration and revenues of the ancient Crown property rights in Scotland to naturally occurring oyster and mussels, to coastal and freshwater salmon and to gold and silver should be devolved to the Scottish Parliament .Further discussions are required to ensure that there is consensus over the devolution of these responsibilities.

3.6 It is now for the Secretary of State and the UK Government to consider the recommendations put forward in the report and to make a decision as to how this matter will be taken forward.

4.0 CONCLUSION

4.1 The Principles within the report align with the submission made by the Council to both the Scottish Affairs Committee inquiry itself as well as to previous Scottish Government consultation relative to the devolution of the Crown Estate Commissions responsibilities for the administration and revenues of the ancient Crown property rights and interest to Scotland.

5.0 IMPLICATIONS

Legal: None.

Policy: Through the Corporate Plan, Community Plan, Economic Development Plan and the Renewable Energy Action Plan the Council recognise the importance of securing local socio economic benefit for our communities from marine and off shore wind renewable development and from other developments along our coastline to secure the future viability of our communities for the future.

Personnel: None.

Financial: None

Equal Opportunities: None.

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