

Petitioner submission of 19 August 2022

PE1885/H: Make offering Community Shared Ownership mandatory for all windfarm development planning proposals

I would humbly request that the Committee seeks specific clarification and an answer to the Petition's main focus (which the Scottish Ministers still haven't answered, but ignored) that a mandatory Community Shared Ownership offer for onshore windfarms could be implemented through the devolved Land & Tax powers as detailed in the petition (In order to assist the committee, these are detailed again below).

Furthermore, I thank the Committee in securing an answer (submission 18 Aug 2022 from Scottish Ministers) regarding the powers that the Scottish Ministers have under Section 36 - it is of note that the Scottish Government has now admitted that under Section 36 (1-4) it has the powers to a) 'Make different provisions in terms of generating capacity of all, or of certain specific types, and b) that one of the functions it may also exercise under this in relation to construction etc of generating stations in Scotland is the power of consent.

Given that the Scottish Ministers have stated that they have the powers under Section 36 to both change the terms of provision and to exercise the power of consent for the construction of generating stations in Scotland, I would ask that the Committee also seeks specific clarification and an answer to the following question - could these powers given to the Scottish Ministers under Section 36 offer an alternative route (to the use of the Land and Tax devolved powers) to implement mandatory Community Shared Ownership?

In order to assist the Committee, here are the specifics of the devolved powers that could be used to make CSO mandatory:

- the Scottish Government has the power to raise new land taxes on any transactions & transfers involving interests in land, (Part 4A Chapter 3 of the Scotland Act).
- The Land Registration etc (Scotland) Act 2012 (and the concomitant 2012 Act Registration Manual of the Registers of Scotland) defines 'transfer' as being any 'transfer of whole' or 'transfer of part' which requires the creation of a new title sheet

with the Registers of Scotland – this includes the creation of leases between 3rd party wind farm developers and landowners.

- Thus the Scottish government has the power to legislate for a new ‘tax’ – one that would require all developers who don’t own the land to make a CSO offer that fully meets the criteria of the Good Practice Principles.