

This document relates to the Scottish Crown Estate Bill (SP Bill 24) as introduced in the Scottish Parliament on 24 January 2018

# Scottish Crown Estate Bill

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## Financial Memorandum

### Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Scottish Crown Estate Bill, introduced in the Scottish Parliament on 24 January 2018.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 24-EN);
  - a Policy Memorandum (SP Bill 24-PM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 24-LC).
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.
4. The possible costs associated with the measures introduced by the Bill are outlined in Tables 2, 3 and the Summary contained in this document. It is acknowledged that if there is a significant change in policy beyond the five year period the total impact on the Scottish Consolidated Fund (SCF) could be higher.

### Background

5. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill, published separately as SP Bill 24. Those documents expand further on the policy background to the Bill and provide more detailed explanation of the provisions of the Bill.

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6. The “Scottish Crown Estate” is defined in section 2 of the Bill as the property, rights and interests to which section 90B(5) of the Scotland Act 1998 applies. The Scottish Crown Estate is owned by Her Majesty in right of the Crown but is managed by Crown Estate Scotland (Interim Management) (“CES(IM)”). CES(IM) became the manager of the Scottish Crown Estate on 1 April 2017 by virtue of the Crown Estate Transfer Scheme 2017 (S.I. 2017/524) (“the Transfer Scheme”). That Scheme transferred the function of managing the Scottish Crown Estate from the Crown Estate Commissioners (“the Commissioners”) to CES(IM). A modified version of the Crown Estate Act 1961 (“the 1961 Act”) currently applies to CES(IM), by virtue of section 36(7) of the Scotland Act 2016.

7. The Scottish Crown Estate assets include a diverse portfolio of property, rights and interests. The new devolved functions include management of rights to the seabed including leasing for offshore windfarms and rights over around half the foreshore around Scotland and urban and rural property. The total property value of the assets as of 31 March 2017, assessed by independent valuers, and the annual gross revenue for 2016/2017<sup>1</sup> associated with these assets is summarised in Table 1 below.

**Table 1 –Value of Scottish Crown Estate assets as at 31 March 2017**

<b>Asset Group</b>	<b>Capital value as of 31 March 2017 (£m)</b>	<b>Annual Gross revenue 2016-2017 (£m)</b>
Coastal	28.5	3.2
Dredging	0.9	0.1
Agriculture	94.8	2.4
Aquaculture	23.7	3.5
Urban	15.0	0.8
Minerals	2.0	0.3
Forestry	14.8	0.2
Residential	11.2	0.5

<sup>1</sup>[http://www.crownestatescotland.com/bundles/app/downloads/59c2621f964be\\_2016-17%20Figures%20for%20web%20FINAL.pdf](http://www.crownestatescotland.com/bundles/app/downloads/59c2621f964be_2016-17%20Figures%20for%20web%20FINAL.pdf) (adjusted)

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Cables/pipelines	23.7	3.1
Renewables	61.1	0.8
Total	275.7	14.9

## Summary of Bill provisions

8. The Bill contains 45 sections in 4 Parts, and 2 schedules:
- Part 1 changes the name of Crown Estate Scotland (Interim Management).
  - Part 2 sets out definitions and the mechanisms by which the management of the Scottish Crown Estate assets can be changed.
  - Part 3 makes provision for the management of Scottish Crown Estate assets, including provision about managers’ powers and duties in relation to the assets and provision about planning, reporting and accounting by managers.
  - Part 4 makes general provision about regulations, ancillary provision, consequential and minor modifications, interpretation, commencement and the short title.
  - Schedule 1 makes modification of certain enactments in light of the change in name of Crown Estate Scotland (Interim Management).
  - Schedule 2 makes consequential and minor modifications of other legislation.
9. The Bill changes the name of CES(IM) to “Crown Estate Scotland” (“CES”). This memorandum refers to the body as “Crown Estate Scotland” or “CES” for ease of reference when referring to the provisions of the Bill, and CES(IM) is used when describing the current position.
10. At present, the Scottish Crown Estate is managed entirely by CES(IM). The Bill introduces mechanisms by which the manager of an asset of the Scottish Crown Estate can be changed. One mechanism is the transfer of the function of managing a Scottish Crown Estate asset to certain categories of persons set out in the Bill. These are the Scottish Ministers, CES, local authorities, other Scottish public authorities and community organisations (as defined in the Bill). The Bill also enables the

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transfer of rights or liabilities of the existing manager in relation to the asset to the new manager, or to one of the other persons capable of receiving the transfer of functions under the Bill. The transfer of the function of managing an asset, or of rights or liabilities in the asset, will be by provision in regulations made by the Scottish Ministers.

11. The other mechanism to change the manager which the Bill provides for is the delegation of the function of managing an asset. If directed to do so by the Scottish Ministers, CES, local authorities and other Scottish public authorities will be able to delegate their function of managing an asset to a local authority, another Scottish public authority or a community organisation. If the Scottish Ministers are the manager of an asset they can delegate to CES, a local authority, another Scottish public authority or a community organisation. The relationship between the delegator and delegate will be set out in a delegation agreement (in accordance with the Bill provisions), which gives effect to the delegation.

12. The exercise of the mechanisms in the Bill to change the manager of an asset will mean that instead of one manager of many assets, there is the potential for there to be multiple managers, each with the responsibility of managing one or more of the assets. It is possible that some managers may only manage one asset or part of one of the asset types e.g. management of the foreshore in a part of Scotland. The proposed powers for transfer or delegation include the ability to restrict the activities of a manager. For instance, in a particular situation it may be considered that it is not appropriate or necessary for a manager to be able to transfer ownership of an asset.

13. The Bill disapplies the 1961 Act as regards CES, meaning the 1961 Act will no longer govern the management of the Scottish Crown Estate. A new governance framework is put in place, with the Bill setting out the duties and powers of managers in the course of management. The Bill enables managers to manage assets in a manner which is likely to contribute to the promotion or the improvement of socio-economic and environmental factors. This includes the ability to transfer ownership, or grant a lease in relation to, an asset for less than market value if the manager is satisfied that the transaction is likely to contribute to the promotion or the improvement of socio-economic or environmental factors.

14. The Bill puts in place a framework at the national level to govern management of the assets. Under the Bill, the Scottish Ministers have the

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function of preparing a national strategic management plan for the assets. The Bill allows this function to be delegated to CES. Managers are required to prepare management plans, and to report annually on their activities. Managers are also to prepare annual accounts, which will be consolidated and audited by the Auditor General for Scotland.

15. The Bill also includes proposed powers for the Scottish Ministers to conduct research and undertake other activities relating to the Scottish Crown Estate in order to enable the funding of strategic initiatives to develop the assets (e.g. co-ordinate research to support renewables development).

## Approach to financial memorandum

16. The estimated figures in this Financial Memorandum are based on information on current levels of costs, including relevant information on the recent costs associated with setting up CES(IM), responses to the consultation on proposals for the long term framework and discussions with stakeholders including COSLA and individual local authorities. This Financial Memorandum only includes costs which are additional to those which would be incurred if the Scottish Crown Estate were not changed from the current arrangements. The current operational costs are already accounted for in existing budgets and this includes Scottish Government staff and other resources which would be redirected to work to implement the Bill provisions.

17. Some of the consultation responses indicated that changes in leasing regimes could provide opportunities for increased simplification.

18. Cost impacts over the five-year assessment period have been categorised as follows: low (£0 – £2 m); medium (£2m - £10m) and high (£10m-).

## Costs on the Scottish administration

19. Devolution of the management of, and revenues from, the Scottish Crown Estate provides an opportunity to enhance the benefits these assets can deliver to Scotland, ensuring decisions are taken in Scotland based on Scottish priorities in a transparent and inclusive way.

20. The property management, administration and capital costs are currently funded from the gross revenue or the capital budget, including

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from sales of capital assets where necessary, rather than from the SCF. These costs include administrative overheads, staff costs and property maintenance, as well as new capital investment to ensure future viability of assets and creation of income streams and other benefits (for example, investment in renewable energy leasing capability). The intention is to continue funding these costs from gross revenue or the capital budget, while ensuring they are kept as low as possible in line with efficient operations.

21. The Scotland Act 2016 requires revenue from the Scottish assets to be paid into the SCF. The Fiscal Framework Agreement required a reduction to the Block Grant from UK Government based on the net revenue of the Crown Estate in Scotland in the year prior to the transfer. The possible losses to the Scottish Administration outlined in this section would not affect the adjustment to the Block Grant agreed under the Fiscal Framework Agreement.

22. The financial provisions included in the Bill include flexibility for the Scottish Ministers to vary the proportion of net revenue that may be retained by the manager of an asset to fund capital expenditure or investment. This is currently set at 9% of the revenue<sup>2</sup> and there are no plans to alter that.

23. The gross revenue was approximately £15m in 2016/17<sup>3</sup>. There are no separate audited accounts for Scotland and some of the support services to the business in Scotland in 2016/17, such as IT and HR support, were sourced from outside Scotland. The annual net revenue was estimated to be £6.1m in 2016/17 as part of the Fiscal Framework negotiations with UK Government.

### Possible costs from change in duties of a manager

24. To date, the property, rights and interests have been managed mainly on a commercial basis, with land and property being bought, sold and leased with the aim of maintaining or enhancing revenue and the capital

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<sup>2</sup> <https://www.thecrownestate.co.uk/media/1097997/hm-treasury-and-the-crown-estate-framework-document.pdf>

<sup>3</sup> <http://www.crownstatescotland.com/media-and-notice/news-media-releases-opinion/update-on-2016-17-revenue>

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value. This has been carried out so as to ensure the best consideration has been secured.

25. The Bill will enable the manager of an asset to take into account wider considerations, including socio-economic or environmental benefits. This may reduce the net revenue generated that flows to the SCF in future. Table 1 outlines the possible extent of costs over a five year period to the Scottish Administration in terms of possible income that may not be received, by indicating possible financial impacts on revenue for each main asset type associated with managers exercising the option to depart from a commercial approach. These costs range from zero (if there is no change in charging arrangements) to the maximum revenue associated with each asset (if no rent is charged by managers for an asset). Totals over five years have assumed fixed lease prices in real terms over this period, no changes in quantity of rateable stock, and no additional taxes or other charges. The actual impacts on revenue will also be dependent on the decisions of a manager and potentially decisions of future administrations.

26. It will remain that all capital receipts must be reinvested into the Scottish Crown Estate or in other land, and assets acquired in the course of management will be owned by the Crown, as required by the Scotland Act 1998.

27. Table 2 provides the possible range of financial loss to the Scottish Administration, and an assessment of that is set out in the third column below.

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Table 2 – Range of possible financial costs to the Scottish Administration

Asset class	Possible range of financial loss	Likely financial loss
Foreshore rights, land in local authority ports and non-operational ports and jetties.	Gross revenue from coastal assets and for dredging totalled £3.3m in 2016/17. The range of possible costs are then <b>£0 - £16.5m in total over 5 years</b> , depending on deviation from commercial rate-charging.	While use of the discretion on charging is likely for some of these assets, the actual change will be dependent on the decisions of a manager and it is considered unlikely that all these assets will be charged at a zero rate. Likely costs over the next five years associated with revenue losses for this asset class are therefore assumed to be in the <b>zero to medium</b> range <sup>4</sup> .
Leasing for wave and tidal energy	No disaggregation available for revenue generated by these assets.	The range of costs to the Scottish Administration associated with any change in lease charges for wave and tidal energy assets is likely to be <b>zero to low</b> over five years, as the industry is currently relatively small and it is considered unlikely to generate significant revenue in the next five years.
Offshore renewable leasing (12-200nm zone), rights over cables and pipelines, other seabed rights (12-	It has been assumed that these assets will continue to be managed commercially and Ministers have indicated that there is more limited scope for further	If leasing for offshore renewable energy or functions in relation to cables and pipelines were to be managed locally in some or all parts of Scotland in future the requirements of the Crown Estate Transfer Scheme 2017 would still need to be followed and there is a case for Scottish Ministers to use

<sup>4</sup> Note: Cost impacts over the five-year assessment period have been categorised as follows: low (£0 – £2 m); medium (£2m - £10m) and high (£10m-).



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Asset class	Possible range of financial loss	Likely financial loss
200m zone) including gas storage and mineral rights, rights to naturally occurring gold and silver, and reserved mining rights.	devolution of these assets.	the proposed powers in the Bill to set lease prices for these activities to ensure a national approach to charging is maintained. There are <b>likely to be zero costs to the Scottish administration</b> over the next five years associated with revenue losses for these assets in relation to the provisions in the Bill to depart from full market value.
Rural estates	Gross revenue from the rural estates totalled £2.9m in 2016/17. The range of possible costs are then <b>£0 - £14.5m in total over 5 years</b> , depending on deviation from commercial rate-charging.	Consultation responses indicate that rural tenants would prefer these assets to be managed at a national level. The maximum cost of departing from a commercial approach in setting rents for these assets would be relatively large, but in practice it is likely that a commercial approach will continue. It has therefore been assumed that over the next five years there are <b>likely to be zero costs to the Scottish administration</b> associated with revenue losses for these assets in relation to the provisions in the Bill to depart from market value.
Urban property	Gross revenue from urban property totalled £800,000 in 2016/17. The range of possible costs are then <b>£0 - £4m in total over 5 years</b> , depending on deviation from	The maximum cost of departing from a commercial approach in setting rents for these assets would be relatively large. This is very unlikely however – as there is limited rationale for managers to charge anything other than market value on these commercial assets and such an approach could distort the

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Asset class	Possible range of financial loss	Likely financial loss
	commercial rate-charging.	property market. It has therefore been assumed that over the next five years <b>there are likely to be zero costs to the Scottish administration</b> associated with revenue losses for these assets in relation to the provisions in the Bill to depart from market value.
Aquaculture	Gross revenue from aquaculture totalled £3.5m in 2016/17. The range of possible costs are then <b>£0 - £17.5m in total over 5 years</b> , depending on deviation from commercial rate-charging.	The Scottish aquaculture sector is dominated by large multinational salmon farming businesses for whom there is limited rationale for charging less than commercial rates. Lease charges are set following periodic independent review and if responsibility for leasing is devolved in some or all parts of Scotland in future there is a case for Scottish Ministers to use the proposed powers in the Bill to set lease prices for these activities to ensure a national approach to charging for leases for this activity is maintained. It has therefore been assumed that over the next five years there are <b>likely to be zero costs to the Scottish administration</b> associated with revenue losses for these assets in relation to the provisions in the Bill to depart from market value.
Salmon fishing rights	Gross revenue from salmon fishing rights totalled £200,000 in 2016/17. The range	CES(IM) currently takes account of the requirements of good management when setting rates for access to use these assets and there is limited scope to

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Asset class	Possible range of financial loss	Likely financial loss
	of possible costs are then <b>£0 - £1m in total over 5 years</b> , depending on deviation from commercial rate-charging.	charge a lower rate. There is limited rationale for managers to charge anything other than market value on these assets. It has therefore been assumed that over the next five years there are <b>likely to be zero costs to the Scottish administration</b> associated with revenue losses for these assets in relation to the Bill provisions.

Note: Sales of assets may also impact on potential rental levels depending on how the proceeds are reinvested.

### New organisational arrangements in Scotland

28. The Bill provisions include powers to transfer or delegate the management of an asset but the Bill will not itself effect such a change. Additional indirect costs as a result of new organisational arrangements in Scotland could however have a subsequent impact on the total net revenue and less revenue would be paid into the SCF unless any increased costs are balanced by increased revenue.

29. It is not possible to be definitive about the costs of change at this time. Most of the instances where a change of management will be made are likely to result from a request from a local authority or community organisation and the costs will depend on the proposal by the local authority or community and how the management will be delivered in practice e.g. whether the proposal is to access administrative support or services from CES or to set up new systems.

30. Scottish Ministers will produce a Business and Regulatory Impact Assessment (BRIA) to accompany each Scottish Statutory Instrument (SSI) to implement a transfer of management of an asset. This would also apply to any incoming administration. Ministers would also take account of the estimated financial costs when reaching a decision on whether to use the proposed power to direct a manager to delegate the management of an asset.

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### One-off programme costs

31. There is uncertainty at this stage on what one-off programme costs may be incurred as this will depend on which assets are further devolved, the geographic extent and the form of further devolution. Any one-off programme costs are likely to be limited to the potential need to set up new finance systems, IT systems or HR arrangements and purchase new IT and telephony equipment when a new manager takes on the management of one or more assets.

32. It is not currently known if another person wishing to take on management of an asset would prefer to use their own existing systems, continue to access CES systems or develop new systems. The set up costs are likely to be led by the current manager and the new manager working in partnership rather than run as a central government project. Where costs need to be incurred these costs are likely to be funded from the gross revenue of the Scottish Crown Estate although this would result in a reduction in the available net revenue for Scotland as a whole. This would result in less revenue paid in to the SCF unless increased costs are balanced by increased revenue.

33. The Crown Estate Commissioners estimated that the total costs for the transfer to CES(IM) were £2.4m<sup>5</sup> including a substantial proportion of this total for the costs of setting up new IT systems. The new systems were designed to cover the whole estate and for the future it is assumed that it may be possible for a new manager of part of the estate to reach an agreement with CES(IM) to access existing systems already in place, or if new systems are needed the costs will be substantially lower than for the transfer to CES(IM). Where a transfer is proposed the estimated costs would be considered in the associated BRIA. Where delegation is proposed account will also be taken of possible costs and it is more likely that it will be possible to continue to use existing IT and finance systems.

### Recurring costs

#### Staff costs

34. The skills and knowledge of existing CES(IM) staff are highly valued by the Scottish Ministers and by stakeholders. The Scottish Government aims to ensure that the transition continues in an effective manner with

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<sup>5</sup> <https://www.thecrownestate.co.uk/media/1097892/integrated-annual-report-2016-17.pdf> (page 115)

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minimal disruption to CES(IM) staff. The rights and existing terms and conditions for CES(IM) staff will continue to be protected by legislation.

35. There could be costs associated with the transfer of staff from the current manager to a new manager. Any such costs would impact on the net revenue available to be transferred to the SCF.

36. Most CES(IM) staff are members of the Principal Civil Service Pension Scheme or associated schemes. There would be no pension costs associated with a transfer of staff to Scottish Ministers or another public body covered by these schemes. Any transfer of existing staff to another manager could lead to changes in future arrangements for the transferring staff's pensions. If any new pension scheme was less favourable there would be a requirement to consider compensation for staff for any financial loss. This could affect the net revenue paid into the SCF. There are no proposals to change the pension arrangements for staff and any future proposals would be costed in advance.

37. It is not possible to be definitive about any recurring staff costs as the Bill creates powers to transfer or delegate management of an asset to another manager and no final decisions have been made yet about the extent of the use of these powers. Where a transfer is proposed the estimated costs would be considered in the associated BRIA at the time of the proposed transfer SSI. Where delegation is proposed it is more likely that existing staff resources could be accessed by the delegate.

#### Other costs

38. The Bill includes requirements for planning and reporting to the Scottish Parliament on an annual basis on the accounts for the Scottish Crown Estate. The current manager undertakes the planning at present and prepares an annual report for Ministers to lay in Parliament. It is not anticipated that the new provision should impose any additional costs on the Scottish Government.

39. The Bill includes provision to determine how lease premiums and income from mining should be charged to the capital and revenue account, powers for Ministers to grant a loan and flexibility for Ministers to enable a manager to retain a proportion of revenue for capital expenditure or investment. The provisions on charging income to the capital and revenue account and the powers for Ministers to grant a loan or enable a proportion

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of revenue to be retained are similar to existing arrangements for CES(IM) so are unlikely to impose additional costs on the Scottish administration.

40. The Bill requires the preparation of a strategic plan for the assets by Scottish Ministers and provision for this to be delegated to another person. It is anticipated that this function could be delegated to CES, which currently undertakes similar functions, at no additional cost over the next five years.

41. The Fiscal Framework Agreement states that managers of Crown Estate assets in Scotland will continue to receive the same benefits in terms of exemption from corporation tax, income tax, capital gains tax and other HMT finance rules. CES(IM) is subject to transactional taxes and consideration will be given on a case-by-case basis to whether a proposed transfer or delegation could impact on VAT or other tax status.

## Costs on local authorities

42. The Bill enables Ministers to further devolve the management of Crown Estate assets in Scotland on a case by case basis. The proposed powers in the Bill may be used to appoint either a local authority or a community organisation or other type of person as a manager of a Crown Estate asset or part of an asset.

43. Further devolution of management of assets via the proposed powers in the Bill would allow for local control over decision-making in the context of a wider governance framework. There are various possible models for how devolved decision-making could be supported, ranging from shared services arrangements to maximise efficiency and economies of scale to each manager having separate administrative and support systems.

44. There is potential for contractual arrangements for shared services to support delivery in a way which reduces administration costs compared with each manager incurring them separately. One possible example of this approach is to continue to access CES administrative and staff support. This would enable local areas to take democratic decisions on the use of an asset even if the council or community has no or limited experience in managing similar assets. Such a model could reduce the additional costs of administration compared with regional or local management.

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45. Where there is a preference by a local manager to establish new systems there will need to be discussions on whether this is necessary.

46. There is currently uncertainty about the exact scale of devolution with each local case potentially being different. A BRIA will be prepared in due course for any proposed transfer of responsibility for management of a Crown Estate asset, which will provide specific estimates of costs, including any anticipated costs to local authorities, of further devolution.

47. Further devolution opportunities may be progressed on a phased basis to enable local interests to consider the merits of taking on management of assets in their area. This approach would allow the Scottish Ministers to make better-informed decisions on the future management of assets based on a greater understanding of the performance of individual assets and liabilities as they are managed in Scotland. CES(IM) is discussing the potential for pilots of local management and the administration arrangements for these could be continued via a transfer or delegation without there being a need for further set-up costs.

48. There are proposed powers in the Bill for Ministers or a manager to provide grants to prepare for a change in management and to allow cross-subsidy between assets. As such there are not expected to be net additional costs to local authorities, but any additional costs associated with further devolution will have a cost to the Scottish administration via the impact on revenue to the SCF.

## Costs on other bodies, individuals and businesses

### Costs to other bodies

49. CES(IM) already works in partnership with the Scottish Government and with other relevant agencies, including Scottish Natural Heritage, Forestry Commission, Scottish Enterprise and Highlands and Islands Enterprise. It is likely that there will be more than one manager of Crown Estate assets in Scotland in future and this could lead to an increase in the costs of these national bodies associated with partnership working with the managers. However, the nature of the partnership working in future is likely to be similar and it will be possible for these public bodies to focus their actions on influencing the national strategy for the assets. The provisions of the Bill do not require substantial change to how other bodies interact and there are, therefore, no direct financial implications.

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#### Costs to businesses and individuals

50. Some of the consultation responses said that further devolution of Crown Estate assets would be expected to alter existing leasing arrangements for developers and the planning they need to undertake on that, with potential time and administrative costs if there are more complicated processes associated with multiple managers. For example, additional costs on offshore infrastructure (such as pipelines and subsea cables) may arise where infrastructure routes cross between areas for which the responsibility sits with local authorities and areas for which the responsibility for management sits with CES. Scottish Ministers have, however, indicated that functions in relation to leasing for cables and pipelines may be better managed at the national level so these additional costs are not likely to be felt in practice. Other types of lease are more location specific and the proposed powers in the Bill to direct managers on rents and other charges can be used to provide a common framework for particular marine industries.

51. In addition, for aquaculture, local authorities are already involved in leasing decisions and the devolution of CES responsibilities for aquaculture leasing to local authorities is likely to lead to minimal or no additional costs for developers of the type outlined above.

52. Some of the consultation responses indicated that changes in leasing regimes, however, could provide opportunities for increased simplification, providing a more structured process for securing consents, permissions and occupancy rights, reducing costs for developers and improving alignment of national and regional planning processes. Aquaculture businesses, for example, could benefit from such a simplification.

53. As noted above, a BRIA will be prepared in due course for any proposed transfer of responsibility for management of a Scottish Crown Estate asset.

54. It is important that further devolution ensures rights of current tenants are protected, the level of service maintained and that uncertainty is reduced where possible. Further devolution will retain the ability for the existing charging arrangements in place for activities to be carried forward when management of an asset transfers to a council or community organisation with the potential for change in future.



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55. The risk of any unexpected large change in charging structures across different managers of the same type of asset in different parts of the country is minimised as exercise of such powers must be taken forward in compliance with the duties in the Bill on market value and there are provisions in the Bill for Ministers to set a national framework for fees and charges. In addition, there is scope for an independent review of proposed charges for cables, pipelines and offshore energy infrastructure.

Wider costs to Scotland from sale of capital assets below market value

56. The proposed new duties include discretion to sell assets for less than market value if the manager is satisfied that this will contribute to the promotion or improvement of socio-economic or environmental factors or other benefits. Use of this discretion by a manager would reduce the overall capital value of the Scottish Crown Estate as the proceeds for reinvestment in the estate would be less than the current value of the asset to the estate. Although assets could be sold for less than their market value, this is only where the manager is satisfied that the sale will lead to broader socio-economic or environmental benefits to Scotland which in turn may yield further economic benefits for Scotland. Managers also are to have regard to the value of the Scottish Crown Estate and the Scottish Ministers will have powers to control sale of assets and restrict a manager's powers relating to sale of an asset.

57. It is unlikely that the rural estates or the forestry estate will be sold in the next five years, or that there is a case for selling the urban property or the mining and minerals rights for less than market value. There is a general presumption against selling coastal or marine assets to avoid fragmentation. The discretion could be applied to parts of the foreshore, although as the current value associated with these assets is low the net impact to Scotland as a whole would be minimal. In addition, the Bill requires a manager to consider the likely effect on the value of the Scottish Crown Estate as a whole when deciding to sell an asset at less than market value.

58. Table 3 includes an indication of the possible costs to businesses over the next five years and possible reductions in the capital value of the Scottish Crown Estate assets if a manager charged less than market value. Figures have been taken from annual valuations and refer to the capital value of assets in 2017. Valuations are indicative – they are based on a number of factors, and can increase or decrease.

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Table 3 – Range of possible costs to businesses, and to Scotland as a whole

<b>Asset class</b>	<b>Possible costs to businesses</b>	<b>Likely costs to Scotland from sale of capital assets below market value</b>
Foreshore rights, land in local authority ports and non-operational ports and jetties	There is no expected additional regulatory impact as a result of devolution to the local level, although there is a chance that further devolution of Crown Estate leasing functions to local managers could alter existing arrangements, with potential time and administrative costs. As revenue associated with these assets is low, <b>costs to businesses for this asset class are assumed to be zero to low<sup>6</sup>.</b>	Foreshore assets could be sold to a community for less than the market value, decreasing the overall value of Scotland’s asset portfolio. This would be offset if the loss of monetary value is less than or equal to the socio-economic or environmental benefits generated.  The capital value associated with these assets is small, so the net impact to Scotland as a whole would be low even if wider benefits are not conferred on Scottish communities. Likely costs to Scotland are therefore <b>zero to low.</b>
Leasing for wave and tidal energy	Further devolution of Crown Estate leasing functions to local managers could alter existing arrangements for renewables companies, with potential time and administrative costs. There may also be savings, e.g. there is a possibility that changes in	There is a general presumption against selling coastal or marine assets to avoid fragmentation, so likely <b>costs to Scotland are zero.</b>

<sup>6</sup> Note: Cost impacts over the five-year assessment period have been categorised as follows: low (£0 – £2 m); medium (£2m - £10m) and high (£10m-).

This document relates to the Scottish Crown Estate Bill (SP Bill 24) as introduced in the Scottish Parliament on 24 January 2018

<b>Asset class</b>	<b>Possible costs to businesses</b>	<b>Likely costs to Scotland from sale of capital assets below market value</b>
	<p>leasing regimes could provide an opportunity to streamline planning and consenting processes, leading to cost savings for businesses.</p> <p>Overall costs to wave and tidal energy businesses are therefore likely to be <b>zero with any possible costs or savings low.</b></p>	
<p>Offshore renewable leasing (12-200nm zone), rights over cables and pipelines, other seabed rights (12-200nm zone) including gas storage and mineral rights, rights to naturally occurring gold and silver, and reserved mining rights.</p>	<p>Ministers have indicated that there is more limited scope for further devolution of these assets. There are likely to be <b>no additional costs to businesses</b> arising from the Bill provisions over the next five years.</p>	<p>There is a general presumption against selling these assets to avoid fragmentation, so likely <b>costs to Scotland are zero.</b></p>

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<b>Asset class</b>	<b>Possible costs to businesses</b>	<b>Likely costs to Scotland from sale of capital assets below market value</b>
Rural estates	<p>Consultation responses indicate that rural tenants would prefer these assets to be managed at a national level.</p> <p>There is no expected additional regulatory burden as a result of devolution to the local level, so there are not likely to be any additional administrative costs on businesses in this eventuality.</p> <p>In addition, as assets are already closely linked to local authority and community management at the local level through planning regimes, devolving rural assets to local managers could even allow for potential synergies with local authority community planning functions. Additional costs to businesses associated with the rural estates are therefore <b>likely to be zero.</b></p>	<p>Rural estates were valued at £106m in 2017 – assuming value stays constant in future years the possible range of costs to Scotland’s capital assets if the estates were sold for less than market value is £0 – £106m. The benefits of not seeking market value would need to be demonstrated. The reduced market value should be less than or equal to any socio-economic or environmental benefits generated, thus negating the reduction in capital assets.</p> <p>In addition, it is unlikely that the rural or forestry estates will be sold in the next five years, so likely overall <b>costs to Scotland are zero.</b></p>
Urban property	<p>There is no expected additional regulatory burden as a result of devolution to the local level, so there are not likely to be any additional</p>	<p>Urban property was valued at £15.05m in 2017 – the possible range of costs to Scotland’s capital assets if these assets are sold for less than market value is 0 –</p>

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<b>Asset class</b>	<b>Possible costs to businesses</b>	<b>Likely costs to Scotland from sale of capital assets below market value</b>
	<p>administrative costs on businesses in this eventuality.</p> <p>Costs to businesses associated with the urban properties are therefore <b>likely to be zero.</b></p>	<p>£15.05m. The reduced market value should be less than or equal to any socio-economic or environmental benefits generated, thus negating the reduction in capital assets.</p> <p>However, there is no case for selling the urban property for less than market value, so <b>likely costs to Scotland are zero.</b></p>
Aquaculture	<p>Local authorities are already involved in aquaculture leasing processes, the potential devolution of CES responsibilities for aquaculture leasing to local authorities are likely to lead to minimal or no additional costs for developers.</p> <p>There is a possibility that changes in leasing regimes could provide an opportunity to streamline planning and consenting processes, leading to cost savings for businesses.</p> <p>Overall costs to aquaculture businesses are therefore likely to be <b>zero with any possible costs or savings low.</b></p>	<p>Aquaculture assets were valued at £23.72m in 2017 – the possible range of costs to Scotland’s capital assets if these assets are sold for less than market value is £0 – £23.72m. The reduced market value should be less than or equal to any socio-economic or environmental benefits generated, thus negating the reduction in capital assets.</p> <p>However, there is a general presumption against selling coastal or marine assets to avoid fragmentation, so <b>likely costs to Scotland are zero.</b></p>

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<b>Asset class</b>	<b>Possible costs to businesses</b>	<b>Likely costs to Scotland from sale of capital assets below market value</b>
Salmon fishing rights	<p>There is no expected additional regulatory burden as a result of devolution to the local level, so there are not likely to be any additional administrative costs on businesses in this eventuality.</p> <p>Costs to businesses associated with salmon fishing are therefore likely to be <b>zero</b>.</p>	<p>Salmon fishing assets were valued at between £10m and £14m in 2017 – the possible range of costs to Scotland’s capital assets if these assets are sold for less than market value is £0 – £14m. The reduced market value should be less than or equal to any socio-economic or environmental benefits generated, thus offsetting the reduction in capital assets.</p> <p>However, it is unlikely that the salmon fishing assets will be sold for less than market value in the next five years, so likely overall <b>costs to Scotland are zero</b>.</p>

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## Summary of costs arising from the Bill

<b>Asset</b>	<b>Likely costs to the Scottish administration</b>	<b>Likely costs to businesses</b>	<b>Likely costs to Scotland from sale of capital assets below market value</b>
<b>Foreshore rights, land in local authority ports and non-operational ports and jetties</b>	0 to medium <sup>7</sup>	0 to low	0 to low
<b>Leasing for wave and tidal energy</b>	0 to low	0 to low	0
<b>Offshore renewable leasing (12-200nm zone), rights over cables and pipelines, other seabed rights (12-200nm zone) including gas storage and mineral rights, rights to naturally occurring gold and silver, and reserved mining rights.</b>	0 (no current plans for devolution)	0 (no current plans for devolution)	0
<b>Rural estates</b>	0	0	0
<b>Urban property</b>	0	0	0

<sup>7</sup> Note: Cost impacts over the five-year assessment period have been categorised as follows: low (£0 – £2 m); medium (£2m - £10m) and high (£10m-).



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<b>Aquaculture</b>	0	0	0
<b>Salmon fishing rights</b>	0	0	0

<b>Change of management</b>	<b>Cost estimate</b>	<b>Cost incurred by:</b>
<b>Programme costs (including systems)</b>	<p>Medium (up to £2.4m) if all transfers and delegations require new systems.</p> <p>Low (£0-2m) if shared service models are employed.</p>	<p>Scottish Administration (met from Scottish Crown Estate gross revenue but would impact on net revenue paid to SCF).</p> <p>Arrangements for transfer of funds between managers would result in no net additional costs to local managers.</p>

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# Scottish Crown Estate Bill

## Financial memorandum

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