



The Scottish Parliament
Pàrlamaid na h-Alba

Clerk to the Delegated Powers and Law Reform Committee
Room T1.01
Scottish Parliament
0131 348 5212
DPLR.Committee@scottish.parliament.uk

James Hynd
Head of Cabinet, Parliament and Governance Division
Scottish Government

6 November 2018

Scottish Crown Estate Bill after Stage 2

The Delegated Powers and Law Reform Committee considered the above Bill today, Tuesday 6 November, and seeks an explanation of the following matters. To enable the Committee to consider the Government's response to these matters prior to Stage 3, a reply by **12 noon, Thursday 8 November** is requested.

Section 14A – Rights and liabilities

- **Power conferred on: the Scottish Ministers**
- **Power exercisable by: Regulations**
- **Revised or new power: New**
- **Parliamentary procedure: Affirmative if textually amending an Act, otherwise negative**

Section 14A has been added at Stage 2, to confer power on Ministers to make regulations to transfer rights and liabilities between managers, even if the management function is not to be transferred or delegated under sections 3 or 4.

In relation to the new power in section 14A, the Committee asks the Scottish Government the following questions:

- (a) **The Supplementary Delegated Powers Memorandum explains that the power is “to cover the potential scenario that a manager may encounter difficulties in managing a liability, but does not require the Scottish Ministers to transfer the management of an asset at the same time”. Why therefore is it considered appropriate that the power extends to the transfer of rights in assets, as well as liabilities?**

- (b) (i) Why is it considered appropriate that the power extends to the transfer of rights and liabilities in former Scottish Crown Estate assets and “historic Scottish assets”, as well as existing assets within the Estate; given that—**
- **the power enables transfers between “managers”, which section 2 defines as persons who for the time being have the function of managing one or more of the existing Scottish Crown Estate assets, and**
 - **the whole provisions of and restrictions in the Bill, apart from section 14A, apply to the “Scottish Crown Estate assets” and managers of those assets, and do not extend to former or historic assets not in the Estate?**
- (ii) What is the difference between the categories of “former Scottish Crown Estate assets” and “historic Scottish assets with the meaning of paragraph 1 of schedule 2 of the Crown Estate Transfer Scheme 2017”?**
- (c) Why is it appropriate that the affirmative procedure applies to the transfer of management functions by regulations under section 3, where it applies to an asset situated in or relating to the Scottish marine area or the Scottish zone, but the negative procedure applies to regulations under section 14A that transfer a right or liability in such an asset (unless the regulations textually amend an Act)?**
- (d) Could some examples be provided of how this power might be exercised, including in relation to former or historic assets?**

Please email your response to the Delegated Powers and Law Reform Committee e-mail address above by 12 noon on Thursday 8 November.

Thank you.

Andrew Proudfoot
Clerk to the Delegated Powers and Law Reform Committee