



The Scottish Parliament  
Pàrlamaid na h-Alba

## Devolution (Further Powers) Committee

Mr Damian Hinds MP  
Exchequer Secretary to the Treasury  
HM Treasury

c/o Clerk to the Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
EH99 1SP

Tel: 0131 348 5000  
devolutioncommittee@scottish.parliament.uk

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Dear Exchequer Secretary,

As you are aware, the Scottish Parliament's Devolution (Further Powers) Committee is leading on consideration of the Scotland Bill. One strand of this activity relates to the planned devolution for the management and revenues of the Crown Estate in Scotland. This includes consideration of the draft Memorandum of Understanding (MoU) and the transfer scheme.

These matters were considered by the Committee at its meeting of Thursday 4 February and it was agreed that I write to you with a number of queries.

Firstly, the Committee considers it very important that both a future Scottish Government and the Scottish Parliament after our elections are fully involved in the development of the Transfer Scheme, statutory instrument and draft Memorandum of Understanding. We understand that the current Scottish Government's involvement has only begun in recent months. We would seek your assurances that HM Treasury will work closely with both the current and a new Scottish Government on this matter and, secondly, consult with the relevant committee or committees in the next Scottish Parliament and listen carefully to their views. We are concerned that, at present, the balance between the statutory transfer scheme and the MoU and would wish to see a greater degree of the substance of the transfer scheme contained in the Memorandum of Understanding.

Secondly, we note that under the transfer scheme as currently drafted the rights of the Secretary of State apply where agreement with Scottish Ministers cannot be reached. We further note that no provision is made in the transfer scheme for reference to be made in such a scenario to an independent arbiter in the event of such a dispute. We would welcome clarification from you on the rationale for this approach being taken?

Thirdly, we would be grateful for an explanation as to why the restrictions have been placed on The Crown Estate in Scotland and new legal rights conferred on the MOD (defence interests) and HM Treasury (energy licensing payments) that are not in

place on The Crown Estate in the rest of the UK. We would appreciate if you could clarify whether the powers that will extend to The Crown Estate in Scotland will make the management of assets in relation to pipelines and the MoD any more onerous than is the case for The Crown Estate elsewhere in the UK?

Fourthly, we would be grateful for a definitive list of the assets of The Crown Estate in Scotland where the management of the revenues is being devolved and, additionally, for a definitive list of the liabilities that are being devolved. The current draft scheme contains a partial list of the former and no details of the latter.

Fifthly, we would be pleased to receive details of the tax status of The Crown Estate in Scotland after devolution in relation to Capital Gains Tax, liability for VAT etc. and whether that differs with The Crown Estate that remains in other parts of the UK.

Sixthly, we note that land in the form of a retail park held under a Limited Partnership in Edinburgh by The Crown Estate, commonly referred to as Fort Kinnaird, is excluded from the devolution of Crown Estate assets in Scotland. We consider that even if the asset is not wholly owned by The Crown Estate, that The Crown Estate interest could be transferred to Scottish Ministers or the equivalent value of the economic asset could be transferred. We seek your views on this approach.

Lastly, we are concerned that there appears to be no locus for the Scottish Parliament with regard to having a formal role in scrutinising the details of any agreed transfer scheme and Memorandum of Understanding that is agreed between HM Treasury and the Scottish Government. As you will be aware the Scottish Parliament has a formal locus with regard to providing consent to the devolution of powers in a wide variety of areas of the Scotland Bill not least with regard to legislative consent on the Scotland Bill itself. We would therefore appreciate if you could agree to put in place a legislative process that would enable the Scottish Parliament to scrutinise the detail of a transfer scheme.

I am grateful for any information you are able to supply on these matters.

Yours sincerely,

Bruce Crawford MSP  
Convener