

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT CROWN ESTATE TRANSFER SCHEME 2017

DRAFT SCOTLAND ACT 2016 (INCOME TAX
CONSEQUENTIAL AMENDMENTS)
REGULATIONS 2017

Monday 20 March 2017

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The Committee consisted of the following Members:

Chair: SIR DAVID CRAUSBY

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|---------------------------------------------------------------------------|------------------------------------------------------------------|
| † Aldous, Peter (<i>Waveney</i>) (Con) | † Morgan, Nicky (<i>Loughborough</i>) (Con) |
| † Barclay, Stephen (<i>Lord Commissioner of Her Majesty's Treasury</i>) | † Perry, Claire (<i>Devizes</i>) (Con) |
| † Butler, Dawn (<i>Brent Central</i>) (Lab) | Reeves, Rachel (<i>Leeds West</i>) (Lab) |
| Djanogly, Mr Jonathan (<i>Huntingdon</i>) (Con) | † Reynolds, Jonathan (<i>Stalybridge and Hyde</i>) (Lab/Co-op) |
| Dugher, Michael (<i>Barnsley East</i>) (Lab) | † Shapps, Grant (<i>Welwyn Hatfield</i>) (Con) |
| † Ellison, Jane (<i>Financial Secretary to the Treasury</i>) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Ferrier, Margaret (<i>Rutherglen and Hamilton West</i>) (SNP) | † Thomas, Derek (<i>St Ives</i>) (Con) |
| † Foster, Kevin (<i>Torbay</i>) (Con) | † Williams, Craig (<i>Cardiff North</i>) (Con) |
| Mahmood, Shabana (<i>Birmingham, Ladywood</i>) (Lab) | Katy Stout, <i>Committee Clerk</i> |
| Monaghan, Dr Paul (<i>Caithness, Sutherland and Easter Ross</i>) (SNP) | † attended the Committee |

First Delegated Legislation Committee

Monday 20 March 2017

[SIR DAVID CRAUSBY *in the Chair*]

Draft Crown Estate Transfer Scheme 2017

4.30 pm

The Financial Secretary to the Treasury (Jane Ellison): I beg to move,

That the Committee has considered the draft Crown Estate Transfer Scheme 2017.

The Chair: With this it will be convenient to consider the draft Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017.

Jane Ellison: It is a pleasure to serve under your chairmanship, Sir David.

The Government are committed to making sure that we work for all parts of the UK. In particular, we believe in the enormous benefits that devolution can unlock. That is why we have already taken action to give a range of new powers to the Scottish Government under the Scotland Act 2016. The statutory instruments will make necessary changes to support that Act; one relates to setting Scottish income tax rates and thresholds, and the other is about keeping any revenues raised from Scottish assets in the Crown Estate in Scotland.

I will address the income tax issues first. The amendments in the regulations will ensure that decisions taken by the Scottish Parliament are fully reflected in wider income tax rules. Last year, the Scottish Parliament was given extensive powers to influence the level of funding available to the Scottish Government, and it now has the power to set income tax rates and thresholds on the non-savings income and non-dividend income of Scottish taxpayers. However, those Scottish income tax powers have implications for a number of areas of wider income tax legislation, particularly those that operate by reference to specific rates or thresholds. We have conducted a detailed consultation on the technical changes needed to support those powers and the regulations will introduce the necessary amendments.

Let me give the Committee a brief overview of the proposed changes. The first relates to pensions relief. The regulations amend the rules that govern arrangements for relief at source, so that they can accommodate any rates and bands of income tax set by the Scottish Parliament. This will ensure that Scottish taxpayers continue to get the right amount of tax relief for their pensions, based on the Scottish rates and thresholds that apply to their earnings.

The second change relates to the pension annual allowance charge. The pension annual allowance rules charge tax on an individual when they make pension contributions over a set threshold in a year; the rate of charge that they pay on their excess contribution is based on the rate of tax to which they are subject. The regulations

insert references to Scottish rates and thresholds into the rules to ensure that the charge on a Scottish taxpayer relates to rates and thresholds set by the Scottish Parliament.

The third change relates to the residuary income from a deceased person's estate. The regulations amend the rules that provide, in certain circumstances, for a reduction in the residuary income of the deceased's estate and a tax credit where a person other than the settlor receives an annual payment from a settlor-interested trust. The reduction in residuary income and level of tax credit are calculated by reference to income tax rates and thresholds. The regulations will ensure that when the individual concerned is a Scottish taxpayer, the right rates and thresholds will be used in that calculation.

The fourth change relates to social security. Under the Finance Act (No. 2) 2005, people who become entitled to a social security lump sum must pay a charge to income tax. Under the regulations, if they are Scottish taxpayers, the charge that they pay will be based on the Scottish basic rate or any other higher rate set.

Lastly, on gift aid, the regulations will amend section 414 of the Income Tax Act 2007 so that if Scottish taxpayers make donations that qualify for gift aid, the tax relief they get back will be in line with the tax rates that they are paying. The regulations will insert references to Scottish rates and thresholds into the gift aid rules to ensure that the relief available to a Scottish taxpayer who makes a donation is based on the rates and thresholds set by the Scottish Parliament. All in all, across these different areas, the amendments made by the regulations will ensure that the income tax system can fully accommodate the decisions taken by the Scottish Parliament as it exercises new income tax powers as it sees fit.

Let me turn to the Crown Estate Transfer Scheme. It is important to Scottish citizens that revenues raised in Scotland from Scottish assets are accounted for and spent in Scotland. The Smith commission agreement therefore recommended that we should transfer to Scotland the management of any Crown Estate assets that are wholly and directly owned in Scotland, including rural and urban holdings and mineral and salmon-fishing rights. It includes an area that incorporates around half the coastal foreshore and almost all the seabed, covering all the Crown Estate's activities up to the 200 nautical miles limit.

We have now agreed the draft scheme with the Scottish Government, under which all rights and liabilities connected to managing those Scottish assets will be transferred to Crown Estates Scotland (Interim Management). All revenues will go to the Scottish Consolidated Fund and the commissioners who are currently in charge will have no further role in the management of those assets. Meanwhile, as required by the Scotland Act 1998, assets will continue to be managed on behalf of the Crown and maintained as an estate in land, which ensures that any sale receipts must be reinvested.

Key protections are also provided for under this instrument, which safeguards citizens across the UK by ensuring that the transfer is not detrimental to defence or national security. It also protects other UK-wide interests, for example, by ensuring that there is a consistent approach to telecommunications throughout the UK, ensuring that pipeline rental increases represent market value so our oil and gas industry is not held back, and helping to ensure that what British customers pay for electricity is fair. Finally, the draft scheme protects the

rights of existing of staff as they transfer to Crown Estates Scotland. Provisions are in place to cover dismissal, contract variation and pensions.

The two instruments make a range of technical amendments that are important to ensure the smooth and effective transfer of powers to Scotland. I therefore hope that hon. Members will support them.

4.36 pm

Margaret Ferrier (Rutherglen and Hamilton West) (SNP): It is a pleasure to serve under your chairmanship, Sir David. I want to speak about the Crown Estate transfer. Although we welcome the devolution of the Crown Estate in the Scotland Act 2016, that excludes certain current assets, such as Fort Kinnaird in the Lothian region. We feel that is not true to the spirit of the Smith commission, which recommended the full devolution of responsibility for the management of the Crown Estate in Scotland and its revenues.

The Scottish Government are consulting on the Crown Estate and still welcome any responses up to and including 29 March. The aim is to ensure that we achieve our national outcomes. The devolution of the management and revenue of the Crown Estate in Scotland will provide an opportunity to use the capital assets and the net revenue generated in a way that contributes to achieving those outcomes, which are to

“value and enjoy our built and natural environment and protect it and enhance it for future generations”,

to

“realise our full economic potential with more and better employment opportunities for our people”,

and to

“have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.”

The Scottish Government will manage the Crown Estate from April 2017. There is a clear and widely supported case for the devolution of the Crown Estate in Scotland to promote accountability and transparency. Once the UK Government have completed the process of transferring the Scottish assets, the Scottish Government will set out a timetable for reforming the management of the Crown Estate assets in Scotland, including further devolution opportunities. Communities will be at the forefront of managing the land and marine resources through opportunities arising from devolution of the Crown Estate and the implementation of Land Reform (Scotland) Act 2016. The Scottish Government will work with the UK Government to ensure the best possible deal for Scotland during the devolution process. We will also ensure a smooth transition for tenants of the Crown Estate’s four rural estates, at Glenlivet, Applegirth, Whitehill and Fochabers.

We are focused on making this devolution work. The priority is to secure the devolution of powers in relation to the management of the Crown Estate assets in Scotland, so we will not oppose this legislation.

4.39 pm

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): It is a pleasure to see you in the Chair this afternoon, Sir David. I do not have a great deal to say on these rather technical amendments, but in respect of the draft Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017, Labour remains supportive of greater

Scottish control over income tax in Scotland. The regulations make a series of consequential amendments arising from the Scottish Government’s powers to set income tax rates and bands. As such, there is no real issue of substance to discuss, so we support the changes. Of course we wish that the Scottish National party Government in Scotland would show more willingness to use these powers to differentiate the Scottish tax system from that of the Conservative Government in Westminster, but that is their decision to make.

The transfer of management of the Crown Estate in Scotland and of the revenues it produces is a welcome measure, which Labour supports as a means of ensuring that Scottish people can more directly benefit from their stewardship of the Crown Estate’s considerable assets in Scotland. Labour was a driving force behind the Smith commission, which supported this transfer as the realisation of a long-held aim for Scotland to have control of the use of the Crown Estate north of the border.

I have one question for the Minister, which is about the process for resolving disputes between the UK and Scottish Governments. I understand that this is the most substantive change following the publication of the original draft seen by Parliament in October 2015. Could the Minister say a little about the negotiations with Scottish Ministers, particularly as regards the process for resolving disputes through determination by independent experts, how those experts will be chosen and what the process will be?

4.41 pm

Jane Ellison: If you will forgive me, Sir David, I will write to the hon. Member for Stalybridge and Hyde specifically on the latter point.

On the point made by the hon. Member for Rutherglen and Hamilton West about Fort Kinnaird, the discussion was settled as part of the Scotland Act 2016 and the management of all the Crown Estate’s wholly and directly owned Scottish assets will be transferred under the transfer scheme. Fort Kinnaird is not wholly and directly owned by the Crown. It is held by an English limited partnership in which the Crown Estate commissioners manage an interest alongside other commercial investors, and the partnership also owns property in other parts of the UK.

Fort Kinnaird has never been wholly or directly owned by the Crown. It was brought into the partnership by the commissioners’ joint venture partner, Hercules Unit Trust, and is managed by British Land. Revenues from the Crown Estate’s interest in Ford Kinnaird will therefore continue to be passed to the UK Consolidated Fund for the benefit of the UK as a whole, including, of course, Scotland.

What has become obvious in our brief debate is that all parties in the House acknowledge that these regulations, given their technical nature, will help us to make the powers we have transferred or are transferring to Scotland work more smoothly. Whether they are to income tax or Crown Estate assets, we want to ensure that any changes are effective and that is what these instruments achieve, taking the necessary steps to allow for the full implementation of new Scottish powers. I commend them both to the Committee.

Question put and agreed to.

**DRAFT SCOTLAND ACT 2016 (INCOME TAX
CONSEQUENTIAL AMENDMENTS)
REGULATIONS 2017**

Resolved,

That the Committee has considered the draft Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017.—(*Jane Ellison.*)

4.43 pm

Committee rose.

