

Scottish Government submission of 23 March 2023

PE1998/A: End legal loopholes for the Monarchy

Please accept my sincere apologies for the delay in responding to the Committee on this.

As noted above, Petition PE1998 seeks to have the Scottish Government legislate to abolish adaptations and exemptions to legislation requested by the Monarchy. However, seeking Crown consent is a requirement under the Scotland Act 1998, which is the UK Act passed by Westminster in 1998 that provides for the current devolution settlement. The effect of that Act, since 1999, is to require the Scottish Government to follow the same rules that apply to UK Bills when it comes to seeking consent from the Royal Household. The Scottish Parliament cannot pass legislation to remove this legal requirement.

Petition PE1998 seeks to have the Scottish Government ensure that all future communications between the Monarchy, Scottish Government and Scottish Parliament with representatives of the Monarchy are fully transparent and public. On this point, correspondence between the Scottish Parliament with representatives of the Monarchy is clearly a matter for the Parliament rather than the Government. In relation to correspondence between the Scottish Government and Monarchy, including representatives of the Monarchy, it is important to note that correspondence with the Royal household is confidential. In order to maintain the ability to hold free and frank discussions it is important that this confidentiality is recognised and respected. Given the legal requirements placed on the Scottish Government by the Scotland Act in relation to Bills, a positive working relationship with the Royal Household is vital.

However, Scottish Government policy is that the Crown should be subject to regulatory requirements on the same basis as everyone else unless there is a legitimate reason for an exemption or modification to this. This policy was reflected in section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 which provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless the provision expressly exempts it. Scottish

Government guidance on [drafting legislation](#) sets out a range of matters where legislation may need to be modified to reflect the position of the Crown.

The Scottish Government welcomes full debate on Bills brought forward to Parliament and requires to explain and justify the policy content of all of its legislation at introduction. All Bills passed by the Scottish Parliament have been scrutinised and debated by Parliament before being agreed. It is open to MSPs and parliamentary Committees to raise questions as to whether and how provisions apply to the Crown during any Bill's parliamentary passage. From September 2022, the Parliament publishes information about whether a Bill requires Crown consent on introduction. The Scottish Government includes information in a Bill's accompanying documents setting out how legislation applies to the Crown and the reasons why Crown consent is needed for any Bill. If a Bill does not apply to the Crown in the same way as everyone else, this will be explained in the accompanying documentation. This ensures full information is publicly available on the introduction of a Bill to enable MSPs to scrutinise and debate this throughout the passage of the Bill.

Indeed, the background information to PE1998 states that “Most recently the Scottish Parliament and people were denied the right to know whether Charles III had been exempted from emergency law to protect tenants from rent rises and evictions during the cost of living crisis.” However, I would like to take this opportunity to make clear that the Cost of Living (Tenant Protection) (Scotland) Act 2022 applies to the Royal Household and their property and to the Crown Estate and the Scottish Crown Estate and its property in the same way as to any other private landlord. There was no preferential treatment in that legislation for either the Royal Household or the Crown Estate or the Scottish Crown Estate. This was made clear during the passage of the Bill and in the Bill's accompanying documents. Information relating to Crown consent is set out in paragraph 93 of the [Policy Memorandum](#) while information on Crown application is set out in paragraph 8 of the [Explanatory Notes](#).

Petition PE1998 also seeks to have the Scottish Government publish the detail of all cases where laws have been adapted at the request of the Monarchy and to prevent any such alterations to our laws from being implemented in the future. The Scottish Government prepares legislation based on numerous factors, including consultation with relevant stakeholders, of whom the Sovereign might be one. The Scottish

Government does not record how Bills have changed as they have been developed or where stakeholders have queried aspects of that legislation.

I hope the Committee finds this letter helpful.