

Scottish Crown Estate Bill

[as amended at Stage 2]

Supplementary Financial Memorandum

Introduction

1. As required under Rule 9.7.8B of the Parliament's Standing Orders, this supplementary Financial Memorandum is published to accompany the Scottish Crown Estate Bill (introduced in the Scottish Parliament on 24 January 2018) as amended at Stage 2.
2. This supplementary Financial Memorandum has been prepared by the Scottish Government. It does not form part of the Bill and has not been endorsed by the Parliament. It should be read in conjunction with the original Financial Memorandum published to accompany the Bill as introduced.
3. The purpose of this supplementary Financial Memorandum is to set out the expected costs associated with the new provisions included in the Bill following Stage 2 amendments. The majority of amendments do not significantly or materially affect the assumptions in the original Financial Memorandum. This document addresses one amendment where additional costs are likely to be significant or where the future additional costs are uncertain.

Part 3: management of Scottish Crown Estate assets

4. Section 8A of the Bill was added by amendment at Stage 2. The purpose of this amendment is to prevent a manager of a Scottish Crown Estate asset from granting a right to carry out the harvesting of particular species of wild kelp from the seabed if that harvesting would inhibit the regrowth of the individual plant.

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Costs on the Scottish Administration and public bodies (other than local authorities)

5. These provisions will apply in relation to managers of Scottish Crown Estate assets as provided for in the Bill. As indicated in the Financial Memorandum submitted with the Bill on introduction, it is not straightforward to estimate costs for the transfer or delegation of the management of an asset. Any additional indirect costs as a result of new management arrangements could have a subsequent impact on the total net revenue paid into the Scottish Consolidated Fund.

6. Section 8A of the Bill contains a new restriction in primary legislation on the activities a manager can undertake or permit to be undertaken. At present the harvesting of seaweed for any form of monetary or other reward from Crown foreshore or seabed in Scotland requires a Crown Estate lease from Crown Estate Scotland. The granting of the Crown Estate lease is dependent upon relevant natural heritage authority (Scottish Natural Heritage) confirmation that the harvesting proposal does not present any evident unacceptable environmental risks or impacts. Current seaweed harvesting activity that is typically permitted is either hand gathering on the foreshore or by cutting plants which grow back, not removing whole plants from the seabed. This amendment has the effect of restricting a specific activity, namely removal of whole plants from the seabed using a vessel, that is currently subject to a regulatory licensing process, as set out in the Marine (Scotland) Act 2010. Such activity requires a licence from the Scottish Ministers before developers can secure a Crown Estate lease from Crown Estate Scotland to access the seabed. Thus, in part, costs will be determined by decisions taken by Ministers in the first instance as part of the regulatory licensing process.

7. To date Ministers have not used the regulatory licensing process to permit the specific activity covered by the amendment to the Bill. As no revenues are generated by the Scottish Administration and public bodies from leasing of the seabed for the purposes of the activity covered by the amendment, the amendment has no current financial or cost implications. It prohibits activities that are not currently taking place as no marine licence has been granted which permits this type of activity.

8. In future the licensing for activity covered by the amendment might be sought by developers. If they satisfy requirements for the regulatory licensing process and requirements in the amendment, for harvesting

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methods that do not inhibit the regrowth of the individual plant, some revenue could be realised from the activity. For instance, as an initial forecast based on estimates for a project in the West of Scotland, gross revenues to Crown Estate Scotland could be in the region of £26,400 for a development harvesting 33,000 tonnes wet weight per annum if relevant requirements are satisfied. However, it cannot be ruled out that this amendment could in future have impacts in terms of potential future revenue foregone from leasing the activity, which could be licensable under the Marine (Scotland) Act 2010, because it is sustainable in terms of magnitude of impacts on the species concerned or the wider ecosystem, but which could be prevented by this amendment because a single plant would not grow back, even though the plant could be replaced naturally by recolonisation of the habitat on which it was located. It is not possible to estimate the possible future impacts at this stage, as these would be specific to the details of any future proposed extraction, including the species concerned, the method, scale and location.

9. There is scientific evidence that the presence of distributions of kelp in our seas provide an ecosystem value e.g. kelp forests act as an important habitat or refuge for some marine species. However, there are currently no definitive estimates of the total ecosystem value of kelp in Scotland's seas. The marine licensing system regulates the environmental impact of a very broad range of activities in the marine environment and ensures that any activity takes account of local circumstances, is sustainable, respects other users of the sea and that the ecosystem value is maintained. The potential marginal benefit associated with the new section 8A will be equivalent to the unit value of ensuring that the growth of an individual plant is not inhibited. No definitive estimates are available on the ecosystem value of an individual plant and this is likely to depend on the age and condition of the plant, whether the potential to inhibit the growth of an individual plant would prevent it from recovering, if not how long that would take to recover, the likelihood and rate of recolonization of the habitat and whether inhibiting a plant or plants in this way would significantly impact on the ecosystem value of the kelp forest or wider kelp population.

Costs on Local Authorities

10. Local authorities do not currently receive any income from the activity that would be restricted by section 8A of the Bill. The amendment at section 8A will not therefore lead to an increase in costs for local authorities based on current activity. However, it cannot be ruled out that this amendment

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could potentially reduce future income received indirectly by a local authority under the net revenue commitment to benefit coastal communities, or directly for local authority managers through possible future revenue foregone as a result of potentially reduced rent from the lease of an area of the seabed as a result of the prohibition of the mechanical harvesting of sea kelp from the seabed. For example, the local authorities for the Shetland Islands, Orkney Islands and Western Isles have expressed interest in taking on management of seabed rights which could be restricted by this amendment. It is not possible to estimate the possible future impacts at this stage, as these would be specific to the details of any future proposed extraction, including the species concerned, the method, scale and location.

Costs on other bodies, individuals and businesses

11. The exact future cost of the amendment is difficult to quantify at this stage given that the activity covered by the amendment does not take place currently in Scotland. An assessment of costs to individuals and businesses would require evidence of benefits that would flow from harvesting methods that inhibit the regrowth of individual plants, and are therefore prohibited by the amendment, and from harvesting methods that allow for regrowth, and are therefore permitted by the amendment, as well as specific information on the proposed activity including the species concerned, the method, scale and location. Such evidence, is currently not available.

12. Evidence available suggests however that developments likely to be affected have potential for significant economic impacts in local areas. Notice of a proposed application under Part 4 of the Marine (Scotland) Act 2010 has been given and is being considered by the Scottish Ministers. The applicant recently communicated to the Parliament that they envisage over 40 (Full Time Equivalent) jobs in biorefinery and the wider supply chain from using mechanical harvesting techniques. It is difficult to estimate the impact of the proposed new duty in the Bill on the local economy and no decision has been taken in relation to the current proposal for an application under Part 4 of the Marine (Scotland) Act 2010.

13. On the basis of the information supplied by the proposed developer the possible wider financial benefits of the proposal in gross terms could be in the region of £1 million per annum. It is anticipated that research and consultancy services would be required to inform the licence and monitoring process. Any applicant would be liable for associated costs

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related to environmental assessments and monitoring. There is also the potential for other developers to express interest in the harvesting of wild kelp using methods which would not be permissible under the provisions in the Bill as amended.

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