

Email advising Royal Household of Scottish Government approach to Crown consent and Crown application

From: [redacted s.38(1)(b)] <[redacted s.38(1)(b)] >
Sent: 23 September 2022 11:24
To: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>; [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>; [redacted s.38(1)(b)] <[redacted s.38(1)(b)] >
Cc: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>; [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>
Subject: RE: Crown consent and application - Scottish Government approach

Dear [redacted s.38(1)(b)],

Many thanks for letting me know, it is helpful to be aware. I will update colleagues here and make sure that they are aware of the plans for w/c 3rd October.

If there is anything else that you need from us, please do let me know.

With best wishes,

[redacted s.38(1)(b)]



[redacted s.38(1)(b)] | [redacted s.38(1)(b)]

Secretariat | Private Secretary's Office

Ext: [redacted s.38(1)(b)] | DDI: [redacted s.38(1)(b)] | Mobile: [redacted s.38(1)(b)] | [redacted s.38(1)(b)]

Buckingham Palace, London, SW1A 1AA

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From: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>
Sent: 23 September 2022 11:20
To: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>; [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>
Cc: [redacted s.38(1)(b)]; [redacted s.38(1)(b)]; [redacted s.38(1)(b)]
Subject: RE: Crown consent and application - Scottish Government approach

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Dear [redacted s.38(1)(b)],

As a result of the death of The Queen, the Scottish Government postponed plans to make the Scottish Parliament aware of our approach during w/c 5th September. I wanted to advise you that the Scottish Government now intends that the Scottish Parliament will be made aware of our intended approach during the course of the week commencing 3rd October.

Best wishes,

[redacted s.38(1)(b)]

[redacted s.38(1)(b)] | Parliament and Legislation Unit | Cabinet, Parliament and Governance Division | Directorate for Constitution and Cabinet | Scottish Government | Tel: [redacted s.38(1)(b)] | Mobile: [redacted s.38(1)(b)] | Email: [redacted s.38(1)(b)]

I am currently working from home and can be contacted by email, phone (numbers above) or Teams

From: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>
Sent: 06 September 2022 12:54
To: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>; [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>
Cc: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>; [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>; [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>
Subject: RE: Crown consent and application - Scottish Government approach

Dear [redacted s.38(1)(b)],

Thank you for your email regarding Crown consent and Crown application. It is incredibly useful to see the Scottish Government's plans with respect to improving transparency on this matter. I will brief my colleagues and will be in touch if we have any questions.

With best wishes,

[redacted s.38(1)(b)]



[redacted s.38(1)(b)] | [redacted s.38(1)(b)]

Secretariat | Private Secretary's Office

Ext: [redacted s.38(1)(b)] | DDI: [redacted s.38(1)(b)] | Mobile: [redacted s.38(1)(b)] | [redacted s.38(1)(b)]

Buckingham Palace, London, SW1A 1AA

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From: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>
Sent: 06 September 2022 12:28
To: [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>; [redacted s.38(1)(b)] <[redacted s.38(1)(b)]>
Cc: [redacted s.38(1)(b)]; [redacted s.38(1)(b)]; [redacted s.38(1)(b)]
Subject: Crown consent and application - Scottish Government approach

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In confidence – For information

Dear [redacted s.38(1)(b)] and [redacted s.38(1)(b)],

As you're aware from previous correspondence on this subject with some of my colleagues, since the beginning of 2021 the Scottish Government has received numerous Freedom of Information requests, Parliamentary Questions and correspondence from Members of the Scottish Parliament on the topic of Crown consent and Crown application.

We wanted to advise you that, in order to increase transparency about the Crown consent process and how a Bill applies to the Crown, and the reasons for this, it is the Scottish Government's intention that, from now on, we will make clear in a Bill's accompanying documents how provisions in a Bill apply to the Crown and why Crown consent is required. This is intended to ensure that Members of the Scottish Parliament will have full information on the introduction of a Bill to enable them to scrutinise and debate this throughout the passage of the Bill.

It is not, however, our intention that the accompanying documents will go into a great deal of detail.

As you're aware, the Scottish Government's policy is that the Crown (including Her Majesty) should be subject to regulatory requirements on the same basis as everyone else unless there is a legitimate reason for an exemption. To be more transparent, and to ensure as much clarity as possible, text will be included in a Bill's Explanatory Notes to indicate where the Crown is subject to regulatory requirements on the same basis as everyone else, or where modifications have been made or exemptions applied. The policy reasons for any significant modifications or exemptions will be explained in the Policy Memorandum as is already the case.

To increase transparency around whether and why Crown consent is likely to be sought, text will be added to a Bill's Policy Memorandum to set out the Government's view on introduction. If it is our view that we are likely to seek consent, keeping in mind that this might be before any discussions have taken place with The Queen's Solicitor, we will keep wording fairly high level. For example, potential reasons for consent being required might include text along the following lines:

- The power under section 1 includes power to make provision for enforcement which could impinge on Crown interests in relation to access to land. Although we cannot at this stage say with any certainty that the power will be used to alter in a significant way the law as it applies to the Crown Estate or The Queen's personal property, the potential is there;
- The Bill introduces changes to appeal rights, giving communities a right of appeal in certain circumstances against the grant of planning permission, and restricting the circumstances in which applicants can appeal against refusal. This this would affect any applications for planning permission made in relation to Her Majesty's estates; or
- The Bill dissolves a body established by Royal Warrant, or would affect a prerogative right to appoint an officeholder.

It is the Scottish Government's intention that the Scottish Parliament will be made aware of our intended approach during the course of the week.

We will, of course, continue to advise you if further Freedom of Information requests are received where we plan to release any information.

Best wishes,

[redacted s.38(1)(b)]

[redacted s.38(1)(b)] | Parliament and Legislation Unit | Cabinet, Parliament and Governance Division | Directorate for Constitution and Cabinet | Scottish Government | Tel: [redacted s.38(1)(b)] | Mobile: [redacted s.38(1)(b)] | Email: [redacted s.38(1)(b)]

I am currently working from home and can be contacted by email, phone (numbers above) or Teams

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