

Island Communities Impact Assessment

**Scottish Crown Estate Act
Commencement Project**

April 2020

Title of policy/ practice/ strategy/ legislation etc.	Scottish Crown Estate Act Commencement Project
Lead Minister	Roseanna Cunningham, Cabinet Secretary for Environment, Climate Change and Land Reform
Lead official	David Mallon
Directorate Division Team	Marine Scotland Aquaculture, Crown Estate, Recreational Fisheries, EMFF and Europe Division (ACRE) Crown Estate Strategy Unit

1. Stage 1 – Planning

What is the main aim of your policy/strategy?

The purpose of the strategy is to commence the new powers and duties for a manager of a Scottish Crown Estate (SCE) asset that are contained in the Scottish Crown Estate Act 2019, and introduce the new legal name for the current manager - Crown Estate Scotland. The effect will be to introduce a new legal framework for management of SCE assets, replacing the Crown Estate Act 1961 with more relevant, appropriate and flexible provisions to capitalise on the benefits of the assets while promoting inclusiveness and high levels of accountability and transparency with the opportunity for local control of the management of SCE assets.

In order to bring the sections in the Act into effect Scottish Ministers are required to commence the Act. The policy behind the project is to commence the sections in the Act in an approach which best ensures a smooth commencement for Crown Estate Scotland and their tenants. Scottish Ministers are therefore commencing the Act in a phased approach through the following instruments:

Commencement No. One - Brought into force on the 1 June 2019 the sections relating to the Strategic Management Plan and other Scottish Ministers' powers and duties.

Commencement No. Two – Will include the sections of the Act which rename Crown Estate Scotland (Interim Management) as Crown Estate Scotland, bring in the new powers and duties under which Crown Estate Scotland will operate, including financial matters/reporting arrangements for Crown Estate Scotland, grants and the schedules of the Act. This commencement will have the effect of replacing the Crown Estate Act 1961 provisions for the management of the SCE assets with the new requirements under the Act. This order will also commence section 15 relating to restrictions on the mechanical harvesting of kelp, which applies to assets managed as part of the SCE.

Commencement No. Three - Will include the sections of the Act which relate to the ability for there to be new managers of SCE assets through either a statutory transfer or delegation. It will also include the meaning of a community body and harbour authority for

the purposes of the Act, new manager Management Plans, audit and end of management provisions.

2. Stage 2 – Evidence

What impact will your policy/strategy/plan have on island communities?

The sections in the Act that will be commenced via the project were developed to have a direct impact on the whole SCE which covers the whole of Scotland, not just Island Communities. The Act includes sections to reform the powers and duties of a manager of SCE assets and for changes in the management of its assets. At present there is a single manager, Crown Estate Scotland, who manages the portfolio of property, rights and interests, which currently includes:

- 37,000 hectares of rural land with agricultural tenancies, residential and commercial properties and forestry on four rural estates (Glenlivet & Fochabers in Moray, Applegirth in Dumfries and Galloway and Whitehill in Midlothian);
- Rights to fish wild salmon and sea trout in river and coastal areas;
- Rights to naturally occurring gold and silver across most of Scotland;
- Extensive coastal rights including just under half the foreshore, 5,800 moorings and in some ports and harbours around the whole of Scotland;
- Leasing of virtually all seabed out to 12 nautical miles, covering some 750 fish farming sites and agreements with cables & pipeline operators, and equivalent rights to the seabed out to 200 nautical miles;
- The rights to leasing for offshore renewable energy and gas and carbon dioxide storage out to 200 nautical miles;
- Retail and office units at 39-41 George Street Edinburgh.

Details of assets can be found at <https://www.crownstatescotland.com/what-we-do/map>

In the future, the proposed duties and powers being commenced would apply to the local management of specific assets by local authorities, community organisations, Scottish Harbour Authorities or by another part of the public sector.

Under the provisions for transfer and delegation contained in the Act, there is the potential for there to be multiple managers of the SCE in future, (either in the islands or on the mainland), each with the responsibility of managing one or more of the assets. It is possible that some may only manage one asset or part of an asset e.g. management of the foreshore or seabed in a part of Scotland. The Act will provide the mechanism by which management of an asset could be transferred or delegated to a local level (either to interested parties in the islands or mainland that meet the requirements of the Act), and sets out the regulatory framework within which a manager must operate. The Act treats all managers of the assets the same regardless of where in Scotland they manage an asset.

There will be a Strategic Management Plan at the national level to govern management of the assets which will ensure common standards of openness, transparency and accountability across the SCE. A manager will be required to prepare a management plan for asset which is being managed. A manager will need to consider the implications of a management plans on island communities.

Commencement also includes Section 15 - Restrictions on the removal of wild kelp from

Island Communities Impact Assessment

the seabed within assets managed as part of the SCE. There are currently licenses granted by Crown Estate Scotland throughout Scotland including in the Highlands and Islands and off the East Coast mainland, so the provision is not island specific.

Commencement also includes Section 7 - Duty to maintain and seek to enhance value, and requires a manager to seek to manage SCE assets in a sustainable manner. The current manager (Crown Estate Scotland) and any future managers such as local authorities, island or mainland community organisations and Scottish harbour authorities will need to consider the wider island impacts in their decision making for assets relating to the islands. It is not anticipated that these local decisions in relation to the management would have a negative impact on island communities. An individual manager's plan could however have impacts on islands and a manager will be required to carry out a screening exercise to determine any impacts on island communities to complement the development of the management plan, wider plans or policies.

The purpose of the sections in the Act to be commenced in this order is not to advance or address or deal with issues specifically for island communities but for Scotland as a whole and is to ensure the overall long-term framework for the management of the estate is intended to support value and growth through sustainability and regeneration in all parts of the estate and to reform wider management powers.

3. What consultation have you had with the island communities on your policy/strategy/plan?

There has been a significant amount of discussion and consultation on the future management of the SCE, including:

- A twelve-week public consultation on the long term framework for management of the Scottish Crown Estate in 2017;
- Scottish Ministers have established the Stakeholder Advisory Group on Crown Estate which includes stakeholders from islands communities, COSLA, and Scottish Crown Estate tenants who are regularly informed on the commencement strategy;
- The Scottish Parliament scrutinised the Act during its passage in 2018, including taking evidence from island stakeholders; and
- Scottish Ministers have performed a twelve week public consultation on the Strategic Management Plan in 2019 which has included seeking views from island representatives.

4. STAGE 4 – DECISION

Does your policy/strategy/plan require an Island Communities Impact Assessment?

Subject to any proposal received in any transfer/delegation management request in relation to the powers in the Scottish Crown Estate Act 2019, the full range of impact assessments may be required to be carried out in handling and preparing for a future transfer or delegation. A manager of an asset will also need to consider the impact on islands when preparing a management plan and carrying out functions in relation to assets in the islands.

Our assessment is an Islands Impact Assessment does not need to be carried out for this commencement project. The commencement project is a technical, enabling exercise

Island Communities Impact Assessment

only to bring the sections of the Act into effect which due to the nature of the SCE apply Scotland-wide.

Sign off of the Island Communities Impact Assessment template	Name: Mike Palmer Job title: Deputy Director Marine Scotland: Aquaculture, Crown Estate, Recreational Fisheries, EMFF and Europe
--	--

**ISLAND COMMUNITIES
IMPACT ASSESSMENT SUMMARY**

Title of Policy, Strategy, Programme etc.	Scottish Crown Estate: Commencement Project
Summary of aims and expected outcomes of strategy, proposal, programme or policy	<p>The strategy is to commence the new powers and duties for a manager of a Scottish Crown Estate (SCE) asset that are contained in the Scottish Crown Estate Act 2019, and introduce the new legal name for the current manager - Crown Estate Scotland. The effect will be to introduce a new legal framework for management of Scottish Crown Estate assets, replacing the Crown Estate Act 1961. This will have the effect of more relevant, appropriate and flexible provisions to capitalise on the benefits of the assets while promoting inclusiveness and high levels of accountability and transparency.</p> <p>The policy behind the project is to commence the sections in the Act in an approach which best ensures a smooth commencement for Crown Estate Scotland and their tenants. Scottish Ministers are therefore commencing the Act in a phased approach to ensure it is commenced in a timely manner.</p>
Summary of evidence	<p>The Scottish Crown Estate currently includes:</p> <ul style="list-style-type: none"> • 37,000 hectares of rural land with agricultural tenancies, residential and commercial properties and forestry on four rural estates (Glenlivet & Fochabers in Moray, Applegirth in Dumfries and Galloway and Whitehill in Midlothian); • Rights to fish wild salmon and sea trout in river and coastal areas; • Rights to naturally occurring gold and silver across most of Scotland; • Extensive coastal rights including just under half the foreshore, 5,800 moorings and in some ports and harbours around the whole of Scotland; • Leasing of virtually all seabed out to 12 nautical miles, covering some 750 fish farming sites and agreements with cables & pipeline operators, and equivalent rights to the seabed out to 200 nautical miles; • The rights to leasing for offshore renewable energy and gas and carbon dioxide storage out to 200 nautical miles; • Retail and office units at 39-41 George Street Edinburgh.

Island Communities Impact Assessment

	<p>The sections in the Act that will be commenced via the project were developed to apply to the entire SCE across Scotland. The Act is not designed to advance or address or deal with issues specifically for island communities but for the Scottish Crown Estate as a whole and is to ensure the overall long-term framework for the management of the estate is intended to support value and growth of the estate through sustainability and regeneration and to reform wider management powers.</p> <p>The Act will provide the mechanism by which management of an asset could be further devolved to a local level (this could be for example island or mainland communities or local authorities) and sets out the regulatory framework within which a manager must operate. There will be a Strategic Management Plan at the national level to govern management of the assets, which will ensure common standards of openness, transparency and accountability across the SCE which any manager must take account of in developing their own management plan. The Act treats all managers the same regardless of where in Scotland they manage an asset.</p> <p>Scottish Ministers acknowledge that once the Act is commenced, a manager will in future also need to consider the impact of their decisions and plans on island communities, where applicable.</p> <p>There has been a significant amount of discussion and consultation on the future management of the SCE over the last few years through consultations and in Parliament, and all have included engagement with island representatives.</p>
<p>Summary of assessment findings</p>	<p>Our assessment is that an Island Communities Impact Assessment <u>does not</u> need to be carried out for this commencement project. The commencement project is a technical, enabling exercise only to bring the sections of the Scottish Crown Estate Act 2019 into effect. Due to the diverse nature of the SCE these provisions will apply Scotland-wide.</p>
<p>Sign-off</p>	<p>Name: Mike Palmer Date: 10 January 2020</p> <p>Job title: Head of Crown Estate Strategy Unit Marine Scotland: Aquaculture, Crown Estate, Recreational Fisheries, EMFF and Europe</p>



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2020

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83960-669-4 (web only)

Published by The Scottish Government, April 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS719966 (04/20)

W W W . g o v . s c o t