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Dear Colleague,

Crown Estate Transfer Scheme 2017

I am writing to follow up on some of the points that were raised during the debate on the Crown Estate Transfer Scheme 2017 on the 23 March. I would first like to thank those of you who attended the debate and for raising such interesting questions.

I have written to Lord Dunlop about his commitment to press the Scottish Government on Paragraph 33 of the Smith Commission Agreement on onwards devolution and we will revert to you after Easter. As you know, further devolution of the Scottish assets within Scotland is a matter for the Scottish Parliament to determine, once the transfer has taken place.

In the light of our exchanges I thought it would be helpful to set out the relationship between the income from the Scottish assets that are being devolved to Scotland and the Sovereign Grant. The Scottish block grant will be adjusted to take the income into account, as set out in the Scottish Government's fiscal framework agreement. Scottish taxpayers will continue to contribute to the Sovereign Grant, because it is paid out of the Consolidated Fund, to which all taxpayers contribute. It is calculated of course by reference to The Crown Estate's revenue, but not paid directly out of that revenue.

The Earl of Kinnoull asked whether the provisions of The Crown Estate Act 1961 would remain fully in force in relation to the Scottish assets that are transferring.

After the transfer, a modified version of the Crown Estate Act 1961 will apply in relation to the management of the Scottish assets. The modifications which will apply for these purposes are in section 36(7) of the Scotland Act 2016 (which makes modifications to reflect the change in management from the Crown Estate Commissioners to the transferee) and article 20 of the Crown Estate Scotland (Interim Management) Order 2017 (SSI 2017/36) (which makes more specific modifications for certain financial purposes, which are explained in the policy note accompanying the Order).

Section 36(3) of the Scotland Act 2016 will enable the Scottish Parliament to legislate about the management of the Scottish assets. This provision, which amends paragraph 2 of Schedule 5 to the Scotland Act 1998, will come into force on the date the transfer occurs under the Scheme.

Of course the principle of the Scottish Parliament being able to legislate about the management of the Scottish assets has already been determined by the UK Parliament and established by the 2016 Act. It will, therefore, be possible for the Scottish Parliament to make alternative provision for the management of the Scottish assets in due course. This is fully consistent with the Smith Commission Agreement's recommendation that responsibility for the management of the Scottish assets be transferred to the Scottish Parliament.

It is worth emphasising that, after the transfer, the Scottish assets must continue to be managed on behalf of the Crown and that whilst assets can be sold for the purposes of that management, an estate in land or estates in land must be maintained at all times. These requirements are set out in subsections (5) to (8) of section 90B of the Scotland Act 1998 and are similar to the position for The Crown Estate outside Scotland.

As the transferee under the Scheme, Crown Estate Scotland (Interim Management) will be responsible for the management of the Scottish assets after the transfer. They may choose to sell some assets, but the receipts derived from any sale must be reinvested and managed on behalf of the Crown.

I am copying this to all other peers who spoke during this debate and am placing a copy in the House library.

Baroness Neville-Rolfe DBE CMG