

2020 No. 77 (C. 9)

CROWN ESTATE

The Scottish Crown Estate Act 2019 (Commencement No. 2 and Saving Provisions) Regulations 2020

<i>Made</i>	- - - -	<i>11th March 2020</i>
<i>Laid before the Scottish Parliament</i>		<i>13th March 2020</i>
<i>Coming into force</i>	- -	<i>1st April 2020</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 46(2) of the Scottish Crown Estate Act 2019(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Scottish Crown Estate Act 2019 (Commencement No. 2 and Saving Provisions) Regulations 2020 and come into force on 1 April 2020.

(2) In these Regulations, “the 2019 Act” means the Scottish Crown Estate Act 2019.

Appointed Days

2.—(1) The day appointed for the coming into force of the provisions of the 2019 Act specified in column 1 of the table in schedule 1 (the subject matter of which is described in column 2 of that table) is 1 April 2020.

(2) The day appointed for the coming into force of the provisions of the 2019 Act specified in column 1 of the table in schedule 2 (the subject matter of which is described in column 2 of that table) is 1 October 2020.

Saving provisions – General

3.—(1) Where paragraph (2), (4), (6) or (8) applies, section 36(7) of the Scotland Act 2016(b) continues to have effect in relation to the relevant asset on and after 1 April 2020 as it had effect immediately before that date.

(2) This paragraph applies where a Scottish Crown Estate asset has been disposed of prior to 1 April 2020.

(3) For the purposes of paragraph (2), an asset is treated as having been disposed of at the point at which missives for the disposal of the asset were fully executed.

(4) This paragraph applies where a servitude right has been granted in or over a Scottish Crown Estate asset prior to 1 April 2020.

(a) 2019 asp 1.
(b) 2016 c.11.

(5) For the purposes of paragraph (4), a servitude right is treated as having been granted in or over the asset at the point at which an agreement to grant the servitude right was fully executed.

(6) This paragraph applies where a Scottish Crown Estate asset is subject to an options agreement concluded prior to 1 April 2020.

(7) For the purposes of paragraph (6), an options agreement is treated as having been concluded at the point at which it was fully executed.

(8) This paragraph applies where a Scottish Crown Estate asset is subject to an agreement for lease concluded prior to 1 April 2020.

(9) For the purposes of paragraph (8), an asset is treated as being subject to a concluded agreement for lease at the point at which the agreement was fully executed.

(10) Paragraph (4), (6) or (8), as the case may be, ceases to apply to a right or agreement if that right or agreement is extended or varied on or after 1 April 2020.

(11) In this regulation “options agreement” means an agreement that either-

- (a) gives a party to it the option to purchase an asset at an agreed price within a stated period of time; or
- (b) gives a party to it the option to purchase an asset and contains a method for determining a price at a specified point in time.

Saving provisions – Right to remove wild kelp from the seabed

4.—(1) Section 15 of the 2019 Act does not apply to a right granted by Crown Estate Scotland prior to 1 October 2020 to remove wild kelp from the seabed.

(2) For the purposes of paragraph (1), a right is treated as having been granted at the point at which the document conferring the right was fully executed.

(3) Paragraph (1) ceases to apply to a right if that right is extended or varied on or after 1 October 2020.

ROSEANNA CUNNINGHAM
A member of the Scottish Government

St Andrew’s House,
Edinburgh
11th March 2020

SCHEDULE 1

Regulation 2(1)

PROVISIONS OF THE 2019 ACT COMING INTO FORCE ON 1
APRIL 2020

Table 1

<i>Column 1</i>	<i>Column 2</i>
<i>Provisions of the 2019 Act</i>	<i>Subject matter</i>
Section 1	Crown Estate Scotland
Section 7	Duty to maintain and enhance value
Section 8	Power to act as owner
Section 9	Transactions on behalf of Her Majesty
Section 10	Disposals requiring Ministerial consent
Section 11	Duty to obtain market value
Section 12	Meaning of “market value”
Section 13	Directions about rent and other charges
Section 14	Maximum period of leases etc.
Section 16(1) and (4)	Rights and liabilities
Section 17	Prohibition on securities
Section 18	Investment of money
Section 19	Charitable donation
Section 21	Equalities
Section 27(1), (2), (3) and (5)(b)	Laying and publication of annual reports
Section 28	Separation of income and capital
Section 29(1), (2), (3), (4) and (5)	Transfer of sums between income and capital accounts
Section 30(1), (2), (3) and (5)	Treatment of certain sums
Section 34(1), (3) and (4)	Requirement to keep accounts and records
Section 35(1)(a) and (2)	Audit
Section 44	Consequential and minor modifications
Schedule 1	Crown Estate Scotland: Modification of enactments
Schedule 2	Consequential and minor modifications

SCHEDULE 2

Regulation 2(2)

PROVISIONS OF THE 2019 ACT COMING INTO FORCE ON 1
OCTOBER 2020

Table 2

<i>Column 1</i> <i>Provisions of the 2019 Act</i>	<i>Column 2</i> <i>Subject matter</i>
Section 15	Restriction on removal of wild kelp from seabed

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to bringing into force particular provisions of the Scottish Crown Estate Act 2019 (“the 2019 Act”). The Bill for the 2019 Act received Royal Assent on 15 January 2019. Sections 42 (regulations), 43 (ancillary provision), 45 (interpretation), 46 (commencement) and 47 (short title) of the 2019 Act came into force the following day.

Regulation 2(1) appoints 1 April 2020 for the coming into force of the provisions specified in column 1 of the table in schedule 1.

Regulation 2(2) appoints 1 October 2020 for the coming into force of the provisions specified in column 1 of the table in schedule 2.

Regulation 3 makes provision saving in certain circumstances the effect of section 36(7) of the Scotland Act 2016 (“the 2016 Act”) which is repealed by schedule 2 of the 2019 Act (brought into force by these Regulations). That section contains provision relating to the management of property, rights and interests on behalf of the Crown. Regulation 3 continues the effect of section 36(7) of the 2016 Act where-

- a Scottish Crown Estate asset was disposed of prior to 1 April 2020,
- a servitude right was granted in or over a Scottish Crown Estate asset prior to 1 April 2020,
- an options agreement was concluded in respect of a Scottish Crown Estate asset prior to 1 April 2020,
- an agreement for lease was concluded in respect of a Scottish Crown Estate asset prior to 1 April 2020.

Regulation 3 includes provision regarding the point at which any of those circumstances is deemed to have occurred and also for circumstances in which the saving ceases to apply.

Regulation 4 provides that section 15 of the 2019 Act, which contains provision relating to the restriction on removal of wild kelp from the seabed (and is brought into force on 1 October 2020 by these Regulations), does not apply to a right of removal granted prior to 1 October 2020. It also makes provision for circumstances in which that saving ceases to apply.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Scottish Crown Estate Act 2019 (“the 2019 Act”) have been brought into force by commencement regulations made before the date of these Regulations.

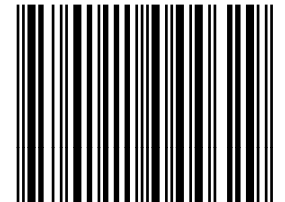
<i>Provisions of the 2019 Act</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 2	1 June 2019	S.S.I. 2019/170
Section 22	1 June 2019	S.S.I. 2019/170
Section 23	1 June 2019	S.S.I. 2019/170
Section 37	1 June 2019	S.S.I. 2019/170
Section 38	1 June 2019	S.S.I. 2019/170
Section 40	1 June 2019	S.S.I. 2019/170
Section 41	1 June 2019	S.S.I. 2019/170

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