

KEW GARDENS (LEASES) (NO. 2) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Kew Gardens (Leases) (No. 2) Bill as introduced in the House of Commons on 30 January 2018 (Bill 158).

- These Explanatory Notes have been prepared by the Department for Environment, Food and Rural Affairs with the consent of Zac Goldsmith, the Member in charge of the Bill in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	2
Policy background	2
Legal background	2
Territorial extent and application	3
Commentary on provisions of Bill	4
Clause 1: Power to grant a lease in respect of land at Kew Gardens	4
Clause 2: Extent, commencement and short title	4
Commencement	4
Financial implications of the Bill	4
Compatibility with the European Convention on Human Rights	4
Annex A - Territorial extent and application in the United Kingdom	5

Overview of the Bill

- 1 This Bill confirms the Secretary of State's powers in relation to the management of the Royal Botanic Gardens, Kew (Kew) and raises the restriction on leasing land at Kew from a period of up to 31 years to a period of up to 150 years.

Policy background

- 2 The Bill would remove unnecessary restrictions on leases on the Kew Gardens estate. Currently the 1702 Crown Land Act limits leases at Kew Gardens to 31 years. This Bill modernises these provisions – allowing leases up to 150 years.
- 3 The change would allow Kew to generate revenue to improve the quality of its estate and support its world-class science in line with its plans. Income generation will help enable Kew to achieve its core objectives and retention of UNESCO World Heritage Site status.
- 4 The aim is to help Kew in its ambition to further increase its self-generated income. Income would be generated by granting long leases to third parties for use of non-core elements of the Kew Gardens estate, potentially for residential or commercial office use. In addition by transferring property to third parties Kew would transfer the liability and cost of maintaining those non-core assets.

Legal background

- 5 Section 5 of the Crown Land Act 1702 prevents the sale of Crown land and limits the length of leases over Crown land to a term of 31 years. Kew is Crown land. It is managed by the Secretary of State and, where directed to do so, Kew's Board of Trustees. This Bill confirms the Secretary of State's powers of management include the power to grant leases at Kew. It also raises the restriction on the length of leases over land at Kew from a maximum term of 31 years to a maximum term of 150 years.

Territorial extent and application

- 6 The Bill extends to England and Wales. It will only have application in England.
- 7 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.
- 8 The table also summarises the position regarding legislative consent motions.

Commentary on provisions of Bill

Clause 1: Power to grant a lease in respect of land at Kew Gardens

- 9 This clause confirms that the Secretary of State's powers of management in relation to Kew include a power to grant a lease over land at Kew for a term of up to 150 years. It also dis-applies the restriction in section 5 of the Crown Lands Act 1702 that prevented the grant of a lease of land at Kew for a term of more than 31 years. The changes made by clause 1 allow the Secretary of State to grant leases of land at Kew for terms of up to 150 years.

Clause 2: Extent, commencement and short title

- 10 This provision is self-explanatory.

Commencement

- 11 The provisions of the Bill will come into force two months after Royal Assent.

Financial implications of the Bill

- 12 Incomes from the change will depend on further development of Kew's Estates 2025 Strategy and third party partnerships. However at this stage Kew estimate the benefits to be as much as about £40m. The majority of this benefit will accrue to Kew over the first 10 years via capital receipts, although there may well also be ongoing revenue impacts over the 150 year period. Income generation and reduced maintenance costs fit with Kew's targets for increasing self-generated income and becoming more financially self-sufficient.

Compatibility with the European Convention on Human Rights

- 13 The Bill is compatible with the European Convention on Human Rights.

Annex A - Territorial extent and application in the United Kingdom

Please retain the footnote that follows as a part of this paragraph.]¹

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clause 1	Yes	No	No	No	N/A	N/A	N/A	No
Clause 2	Yes	No	No	No				

¹ References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

KEW GARDENS (LEASES) (NO. 2) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Kew Gardens (Leases) (No. 2) Bill as introduced in the House of Commons on 30 January 2018 (Bill 158).

Ordered by the House of Commons to be printed, 30 January 2018

© Parliamentary copyright 2018

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS