

Duchy of Cornwall Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Lord Berkeley, the Member in charge of the Bill, are published separately as HL Bill 43 – EN.

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CONTENTS

- 1 Succession to the title Duke of Cornwall
- 2 Presumption against Crown Immunity
- 3 Tax status of the Duchy of Cornwall
- 4 Exemptions and immunities
- 5 Power to purchase land
- 6 Right to Royal Mines within Cornwall and the Isles of Scilly
- 7 Right to Treasure Trove within Cornwall and the Isles of Scilly
- 8 Right to bona vacantia within Cornwall and the Isles of Scilly
- 9 Right to escheat within Cornwall and the Isles of Scilly
- 10 The right of any attorney or solicitor appointed in the affairs of the Duchy of Cornwall
- 11 Treasury Solicitor
- 12 Extent, commencement and short title

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TO

Amend the succession to the title of the Duke of Cornwall, to remove the presumption of Crown Immunity applying to the Duchy of Cornwall, to remove various powers, exemptions and immunities from the Duchy of Cornwall, to confirm the right to Royal Mines within Cornwall and the Isles of Scilly vests in the Crown, to provide the right to Treasure Trove, bona vacantia and escheat within Cornwall and the Isles of Scilly lies with the Crown and to provide that any attorney or solicitor appointed in the affairs of the Duchy of Cornwall shall be called to the Bar or hold a practising certificate as appropriate; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Succession to the title Duke of Cornwall

Whereas in accordance with a Charter of 1337 (Regnal 11 Edward 3) (“the Charter”) the title Duke of Cornwall devolves on the eldest living son of the monarch being heir to the throne, this shall be varied such that the title of Duke of Cornwall shall be passed to the eldest living child of the monarch being heir to the throne, regardless of gender.

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2 Presumption against Crown Immunity

Any enactment shall be deemed to apply to the Duchy of Cornwall unless the contrary is expressly provided.

3 Tax status of the Duchy of Cornwall

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- (1) For the purposes of income tax, the Duchy of Cornwall shall be regarded as settled property in accordance with section 466 of the Income Tax Act 2007 (meaning of “settled property” etc) and subject to income tax accordingly.
- (2) For the purposes of capital gains tax, the Duchy shall be regarded as a settlement in accordance with sections 60 and 68 of the Taxation of Chargeable

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Gains Act 1992 (nominees and bare trustees; meaning of settled property) and subject to capital gains tax accordingly.

4 Exemptions and immunities

- (1) Section 33(2)(c) of the Leasehold Reform Act 1967 (Crown land) is repealed.
- (2) Section 94(11)(c) of the Leasehold Reform, Housing and Urban Development Act 1993 (Crown land) is repealed. 5
- (3) In section 47(1) of the Countryside Act 1968 (crown land) the words “or to the Duchy of Cornwall” are omitted.
- (4) In section 50(4) of the Ancient Monuments and Archaeological Areas Act 1979 (application to Crown land) the words “or belonging to the Duchy of Cornwall” are omitted. 10
- (5) Section 50(4)(c) of the Ancient Monuments and Archaeological Areas Act 1979 (application to Crown land) is repealed.
- (6) In section 63(1)(a) of the Electricity Act 1989 (application to Crown land) the words “or to the Duchy of Cornwall” are omitted. 15
- (7) Section 63(4)(d) of the Electricity Act 1989 (application to Crown land) is repealed.
- (8) In section 74(1) of the Land Drainage Act 1991 (application to the Crown) the words “to land belonging to the Duchy of Cornwall” are omitted.
- (9) Section 74(2)(c) of the Land Drainage Act 1991 (application to the Crown) is repealed. 20
- (10) In section 13(1)(a) of Schedule 6 to the Land Registration Act 2002 (registration of adverse possessor) the words “or to the Duchy of Cornwall” are omitted.
- (11) In the Planning Act 2008 –
 - (a) section 227(4)(b) and (5)(e) (“Crown Land” and “the appropriate Crown authority”) are repealed; 25
 - (b) references to the Duchy of Cornwall in –
 - (i) section 135(4)(b) (orders: Crown land),
 - (ii) section 227(2), (4)(b), and (5)(e) (“Crown land” and “the appropriate Crown authority”), and 30
 - (iii) section 231(3)(b) (service of notices on the Crown and Parliament),
 shall be omitted; and
 - (c) section 228(2)(b) (enforcement in relation to the Crown and Parliament) is repealed. 35
- (12) In section 52 of the Harbours Act 1964 (application of Act to Crown) all references to the Duchy of Cornwall shall be omitted.
- (13) In section 118(2)(c) of the Localism Act 2011 (regulations under section 117: collection and enforcement), all references to the Duchy of Cornwall shall be omitted. 40

5 Power to purchase land

In section 7 of the Duchy of Cornwall Management Act 1863 (power to purchase lands), for “England” substitute “the United Kingdom”.

6 Right to Royal Mines within Cornwall and the Isles of Scilly

- (1) The right to gold or silver mines within Cornwall vests in the Crown. 5
- (2) In section 37(6) of the Limitation Act 1980 (application to the Crown and the Duke of Cornwall) the words “or of the Duke of Cornwall” are omitted.

7 Right to Treasure Trove within Cornwall and the Isles of Scilly

The ownership of treasure, as defined by section 1 of the Treasure Act 1996 (meaning of “treasure”), within Cornwall and the Isles of Scilly shall vest in the Crown notwithstanding the Duchy of Cornwall may be a franchisee as defined in section 5 of the Treasure Act 1996 (meaning of franchisee). 10

8 Right to bona vacantia within Cornwall and the Isles of Scilly

- (1) The right to bona vacantia within Cornwall and the Isles of Scilly shall vest in the Crown. 15
- (2) In section 57(2) of the Administration of Estates Act 1925 (application to the Crown) the words “or of any property for the time being belonging to the Duchy of Cornwall” are omitted.
- (3) The Companies Act 2006 is amended as follows.
- (4) In section 1012(1)(a) (property of dissolved company to be bona vacantia), the words “or to the Duke of Cornwall” are omitted. 20
- (5) In section 1012(1)(b), for “, to the Duchy of Lancaster or to the Duke of Cornwall” substitute “or to the Duchy of Lancaster”.

9 Right to escheat within Cornwall and the Isles of Scilly

The right to escheat within Cornwall and the Isles of Scilly shall vest in the Crown. 25

10 The right of any attorney or solicitor appointed in the affairs of the Duchy of Cornwall

- (1) Section 31 of the Stannaries Act 1855 (law clerk of the Duchy of Cornwall to act as attorney or solicitor in all courts) is repealed. 30
- (2) In section 88(1) of the Solicitors Act 1974 (saving for solicitors to public departments and City of London) the words “or the Duchy of Cornwall” are omitted.
- (3) Section 193(1)(d) of the Legal Services Act 2007 (solicitors to public departments and City of London) is repealed. 35

11 Treasury Solicitor

The affairs of the Duchy of Cornwall or the Duke of Cornwall in right of the Duchy of Cornwall and any litigation in relation to which it or he is, or may be, a party, are not matters in which the Crown has an interest and accordingly the Treasury Solicitor constituted under the Treasury Solicitor Act 1876 (1876 c. 18) may not, and any person in the Treasury Solicitor's employ may not, give any advice to, or bring or act in any proceedings on behalf of, the Duchy of Cornwall, or any Duke of Cornwall in respect of the Duchy of Cornwall.

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12 Extent, commencement and short title

- (1) This Act extends to the whole of the United Kingdom.
- (2) This Act comes into force on the day on which it passed.
- (3) This Act may be cited as the Duchy of Cornwall Act 2015.

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Lord Berkeley

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