

# The devolution of the Crown Estate in Wales: an environmental law perspective

Gareth P. Evans\*

## ABSTRACT

The Crown Estate has an important role as a land manager and licensor of renewable energy projects in the UK, and the management of its assets links to long-term environmental targets, including the achievement of net zero by 2050. Recent debates on the devolution of the Crown Estate in Wales are therefore of importance to the future of environmental governance systems and renewable energy production. This analysis considers the general duty of the Crown Estate in relation to net zero and sustainable development targets, as well as how the devolution settlement has created the possibility for policy divergence and the extent to which the Crown Estate's operations have become territorialized. It finds that should the devolution of the Crown Estate take place in Wales, the emphasis will rest with the Welsh Parliament to create an ambitious, achievable, and enforceable governance structure for the effective delivery of environmental and net zero targets by a Welsh Crown Estate.

**KEYWORDS:** devolution; Wales; sustainable development; net zero; the Crown Estate.

## 1. INTRODUCTION

On 22 July 2025, the Crown Estate (Wales) Bill passed unopposed through report stage in the House of Lords.<sup>1</sup> The Bill, introduced as a private members bill by the former leader of Plaid Cymru, Lord Wigley, proposes the devolution of the management of the Crown Estate in Wales.<sup>2</sup> Under the current legal framework, the management of the Crown Estate is partly territorialized, following the devolution of the Scottish Crown Estate in 2016.<sup>3</sup> The remainder of the estate in England, Wales, and Northern Ireland continues to be administered by a centralized Board of Crown Estate Commissioners, who draw their authority from the Crown Estate Act 1961.

\* Gareth P. Evans, Swansea University, Wales, United Kingdom. E-mail: [gareth.p.evans@swansea.ac.uk](mailto:gareth.p.evans@swansea.ac.uk)

1 HL Deb 22 July 2025, vol 848, col 136.

2 The Crown Estate is currently listed as a general reservation under the Government of Wales Act 2006, sch 7A, pt 1, para 2(2).

3 Scotland Act 2016, s 36.

In Wales, the Crown Estate owns 65 per cent of the foreshore, over 50,000 acres of land, and holds general responsibility for the leasing of the seabed for renewable energy projects. Due to the size and diversity of its natural assets, the management of the Crown Estate is relevant to the protection of natural landscapes and the facilitation of renewable energy projects.<sup>4</sup> In reference to the latter, the Crown Estate's marine assets in Wales include important sites for existing and new offshore windfarms in the Irish and Celtic Sea,<sup>5</sup> as well as the UK's first carbon capture and storage facility to reuse existing gas infrastructure under the Irish Sea.<sup>6</sup> The economic importance of the Crown Estate's portfolio in Wales is reflected by the recent increase in its asset value, rising from £21.1 million in 2007 to £853 million in 2023.<sup>7</sup>

Acknowledging the importance of the Crown Estate's role in renewable energy projects and the management of the natural environment, this analysis seeks to understand how decisions over the devolution of the Crown Estate could impact the Welsh Government's ability to deliver its environmental and climate targets. To achieve this end, this study is structured into four parts. The first part, Section 2, begins by providing an overview of the net zero targets in the UK and the territorialized nature of their delivery under the devolution settlements. Section 3 then sets out the current legislative framework for the management of the Crown Estate across the UK, with a specific focus on the duties relating to sustainable development and net zero. Section 4 moves to analyse how the devolution process has created territorial divergence in the environmental obligations placed upon the Crown Estate. The final part, Section 5, assesses the arguments for and against the devolution of the Crown Estate in Wales, with particular reference to environmental matters, before concluding in Section 6.

## 2. BACKGROUND: NET ZERO TARGETS IN THE UK

While the Climate Change Act 2008<sup>8</sup> sets statutory targets for the UK to achieve net zero emissions by 2050, the power to legislate for net zero is in principle a devolved matter, and there are separate targets included in legislation for Wales, Scotland, and Northern Ireland.<sup>9</sup> The importance of the devolved governments in this policy area has resulted in divergence emerging across the four UK nations in the implementation of net zero targets. First, in England, Wales, and Northern Ireland, the target year for net zero is fixed at 2050, whereas Scotland has set an earlier net zero emissions target year of 2045.<sup>10</sup> More recently, the Welsh Government has commissioned research to examine potential pathways to net zero by 2035.<sup>11</sup> Second, the four parts of the UK exhibit differences in their interim targets for net zero. The three devolved governments each produce their own interim targets, while the interim targets in England are set against the overall UK target.<sup>12</sup> Third, the statutory requirements for the implementation of net zero policies have also differed across the four nations by initially

4 The Crown Estate, *Wales Review 2022/23* (Cardiff, 2023); Lynda M. Warren, 'Property rights and marine protected areas' (2023) 25 *ELR* 234, 237.

5 The Crown Estate, 'New Frontier for UK Offshore Wind With Leading Developers Set to Deliver New Generation of Floating Windfarms' (19 June 2025) <<https://www.thecrownestate.co.uk/news/new-frontier-for-uk-offshore-wind-with-leading-developers-set-to-deliver-new-generation-of-floating-windfarms>> accessed 28 July 2025.

6 The Crown Estate, 'The Crown Estate and Eni Sign Agreement on UK's First Carbon Capture Project to Reuse Existing Infrastructure' (4 October 2024) <<https://www.thecrownestate.co.uk/news/The-Crown-Estate-and-Eni-sign-agreement-on-UKs-first-carbon-capture-project>> accessed 28 July 2025.

7 See: HC Deb 7 January 2025, vol 759, col 790.

8 Climate Change Act 2008, s 1.

9 Environment (Wales) Act 2016, s 29; Climate Change (Scotland) Act 2009, s A1; Climate Change Act (Northern Ireland) 2022, s 1.

10 Climate Change (Scotland) Act 2009, s A1(2).

11 Wales Net Zero 2035 Challenge Group, 'Enabling the Transition to Net Zero by 2035' (16 September 2024) <<https://netzero2035.wales/our-reports/enabling-the-transition-to-net-zero-by-2035/>> accessed 10 December 2025.

12 National Audit Office, 'Approaches to Achieving Net Zero Across the UK' (London 2023) 11.

only requiring carbon budgets to be set in England, Wales, and Northern Ireland, with Scotland following this approach later in 2024.<sup>13</sup> Thus, while the UK as a whole is working towards an overall net zero objective, the devolution settlements also make this a territorialized issue and have allowed for differences to emerge in the statutory targets across the four parts of the UK.

Alongside the territorial differences in the statutory targets for net zero, there is also growing divergence in the policy approaches undertaken by the four governments in their implementation of net zero strategies. In Wales, this has included a more ambitious programme of government, with Welsh Ministers utilizing the powers available to them to seek to influence, amongst other things, a modal shift to active travel across Wales.<sup>14</sup> Throughout this process, however, the Welsh Government has also highlighted the limitations on its current ability to produce policy on climate change and net zero due to the full or partial reservation to Westminster of certain important policy areas, including the Crown Estate.<sup>15</sup> The Crown Estate's central role in the licensing of renewable energy and carbon capture and storage projects makes the management of its assets an important policy lever in the governmental response to climate change.

As such, the Welsh Labour Government and Plaid Cymru both support the devolution of the Crown Estate in Wales, citing as one of their reasons the ability to better influence the management of Crown Estate's assets in Wales to help reach the Welsh Government's net zero targets.<sup>16</sup> The UK Labour Government remains opposed to the devolution of the Crown Estate in Wales, stating that it would undermine investor confidence and risk creating further complexity and delay in the drive for energy security and net zero.<sup>17</sup>

Regardless of where competence over the Crown Estate lies, the management of its assets is of general importance to the achievement of the UK's net zero targets and therefore requires regulation. This was illustrated well by Baroness Young during the recent passage of the Crown Estate Bill 2025:<sup>18</sup>

If the Government are to have a sporting chance of meeting the statutorily binding targets in the Climate Act and the Environment Act, they need to recognise that the non-cuddly and highly impactful Crown Estate needs to be specifically tasked with making its important contribution to meeting these targets.

The next section considers the statutory obligations that currently exist upon the Crown Estate regarding sustainable development and net zero targets.

### 3. THE CROWN ESTATE, NET ZERO AND THE ENVIRONMENT

As a landowner and manager, the Crown Estate plays an important role in the management of the natural environment and the development of the UK's renewable energy sector. The estate includes urban and rural land, large sections of the foreshore, and most of the seabed in UK territorial waters out to 12 nautical miles. It also holds general rights over the seabed and subsoil out to 200 nautical miles, including natural resources and offshore energy, but excluding

13 Climate Change (Emissions Reduction Targets) (Scotland) Act 2024.

14 Welsh Government, 'National Transport Delivery Plan: 2022 to 2027' (Cardiff 2023).

15 Welsh Government, 'Programme for Government – Update' (Cardiff 2021) 5.

16 Welsh Government, 'The Co-operation Agreement' (Cardiff 2021) 5.

17 HC Deb 7 January 2025, vol 759, col 808.

18 HL Deb 14 October 2024, vol 840, col 65.

fossil fuels.<sup>19</sup> Under separate statutory powers, the Crown Estate is the awardee of rights for the production of energy from water and wind in Renewable Energy Zones<sup>20</sup> and over the offshore carbon capture and storage schemes in Gas Storage and Importation Zones.<sup>21</sup> As a result, the Crown Estate's portfolio of assets is highly important to the future of the UK's renewable energy sector and the associated objective of net zero by 2050.

Following the devolution of the management of the Crown Estate in Scotland in 2016, the Estate is now administered in two parts: the Crown Estate Act 1961 sets out the statutory powers of the Estate in England, Wales, and Northern Ireland, and the Scottish Crown Estate Act 2019 sets out the powers of the Scottish Crown Estate. Under both frameworks, the Crown Estate operates as an independent trust with the primary statutory duty to maintain and enhance the financial value of its real estate assets.<sup>22</sup> Within the two frameworks, different attempts have been made to qualify the operation of this duty against certain environmental and sustainable development targets and obligations.

For the Crown Estate in England, Wales, and Northern Ireland, the Crown Estate Act 1961 sets out guiding principles for the management of the estate's assets. Under the original version of the Act, these were framed in broad terms to have 'due regard to the requirements of good management'.<sup>23</sup> Since 2025, these principles have been amended, so that they now require Commissioners to also 'keep under review the impact of their activities on the achievement of sustainable development in the United Kingdom'.<sup>24</sup> While this new approach is to be welcomed in principle, its broad drafting, together with the lack of certainty associated with the obligation to 'keep under review' its achievement of sustainable development, raises questions as to its effectiveness and enforceability.

The clause is additionally problematic by the lack of definition it affords to the meaning of 'sustainable development'. While attempts were made in both Houses of Parliament to amend the clause—itsself the product of an amendment in the House of Lords<sup>25</sup>—to attach the meaning of sustainable development to other relevant environmental legislation, the overall outcome saw much left out of the statute and included instead in the Crown Estate's framework document, produced by UK Treasury.<sup>26</sup> The framework document provides that the Crown Estate will, where relevant, 'give consideration to relevant legislation', which it defines as Part 1 and section 56 of Climate Change Act 2008, and sections 1–3 of the Environment Act 2021, along with specific requirements regarding environmental protection and animal welfare standards on salmon farms on its estate.<sup>27</sup> It does not include reference to either the Wellbeing of Future Generations (Wales) Act 2015—which contains a definition of sustainable development<sup>28</sup>—or the Environmental (Wales) Act 2016. Both pieces of Welsh legislation were included in proposed amendments at Public Bill Committee on the Crown Estate Bill 2024–5.<sup>29</sup>

The potential limitations on its legal effect become clearer when compared against the governance structure of the Crown Estate in Scotland. As discussed, competence over the

19 Continental Shelf Act 1964, s 1. For information on the Crown Estate and energy, see: Aileen McHarg, 'Devolution of the Crown Estate and Energy Policy' (University of Strathclyde Policy Brief, January 2015) <[https://strathprints.strath.ac.uk/52701/1/McHargA\\_IPPI\\_2015\\_Devolution\\_of\\_the\\_crown\\_estate\\_and\\_energy\\_policy.pdf](https://strathprints.strath.ac.uk/52701/1/McHargA_IPPI_2015_Devolution_of_the_crown_estate_and_energy_policy.pdf)> accessed 10 December 2025.

20 Energy Act 2004, pt 2.

21 Energy Act 2008, s 4.

22 Crown Estate Act 1961, s 1(3); Crown Estate (Scotland) Act 2019, s 7.

23 Crown Estate Act 1961, s 1(2).

24 Crown Estate Act 1961, s 1(3A), inserted by Crown Estate Act 2025, s 3.

25 HL Deb 5 November 2024, vol 840, col 1448.

26 *ibid.*

27 HM Treasury, *Framework Document: The Crown Estate* (May 2025) para 5.4.

28 Wellbeing of Future Generations (Wales) Act 2015, s 2.

29 Crown Estate Bill Deb 6 February 2025, col 14.

management of the Crown Estate in Scotland was devolved to Scottish Ministers in 2016 and is now administered through a separate body, the Scottish Crown Estate. This new body draws its governance framework from the Scottish Crown Estate Act 2019. Under this new framework, the Scottish Crown Estate maintains an equivalent primary duty to the Crown Estate in the rest of the UK—to manage and seek to enhance the value of its assets<sup>30</sup>—however, this is qualified by an additional duty that a manager ‘must – act in the way best calculated to further the achievement of sustainable development in Scotland’.<sup>31</sup> The wording of this duty imposes a clearer sustainable development obligation on managers in the Scottish Crown Estate, relative to the rest of the UK.<sup>32</sup> In addition, the Scottish Crown Estate must also ‘seek’ to manage its assets in a way that is ‘likely’ to contribute to the improvement of Scotland. This is measured against four development targets, one of which includes the management of assets in a way that is likely to contribute to ‘environmental wellbeing’.<sup>33</sup>

While the statutory conditions placed upon the Scottish Crown Estate offer greater potential for an enforceable qualification of the Estate’s central socio-economic duty, the ease of its enforceability is less certain. In both Scotland and the rest of the UK, the attempts to qualify the socio-economic duty with obligations to the environment and sustainable development exhibit varying degrees of legal abstraction and performative law. In other words, while expressing a commitment to environmental targets, such statutory and framework provisions are difficult to formally enforce or are characterized by symbolic compliance without a clear means of regulated delivery.<sup>34</sup> This is true under the Crown Estate Act 1961 and the Scottish Crown Estate Act 2019, both of which continue to afford considerable discretion to Commissioners through the construction of their sustainable development duties. While the Scottish attempt to create a more easily enforceable standard must be welcomed and demonstrates how devolution can lead to positive divergence in the regulation and management of the Crown Estate, it must also be recognized as creating conditions for only partial enforcement.

#### 4. ENVIRONMENTAL GOVERNANCE AND THE TERRITORIAL CONSTITUTION

As discussed, the devolution settlement creates opportunities for divergence to emerge in environmental governance frameworks, which hold the potential to affect the management practices of the Crown Estate. So far, this analysis study has addressed this issue by considering how the location of legislative competence can affect the central governance framework of the Crown Estate and its accompanying statutory duties. Less attention has so far been paid to the ability of the Senedd (the Welsh Parliament) and Welsh Government to impose separate obligations on the Crown Estate through their general powers to legislate in relation to the environment. As the literature shows, the growing body of Welsh environmental law exhibits a tendency for more ambitious legal frameworks for the regulation of the environment in Wales, relative to the rest of the UK.<sup>35</sup> This section of the paper will now consider to what extent the Welsh devolution settlement, while listing the management of the Crown Estate as a reserved matter,<sup>36</sup> allows

30 Scottish Crown Estate Act 2019, s 7(1).

31 Scottish Crown Estate Act 2019, s 7(2)(a).

32 The construction of this duty is similar to the broader sustainable development obligation placed upon Welsh Ministers under the Government of Wales Act 2006, s 79.

33 Scottish Crown Estate Act 2019, s 7(2)(b).

34 Emma Lees and Ole W. Pedersen, ‘Performative Environmental Law’ (2005) 88 MLR 124, 125.

35 Victoria Jenkins, ‘Sustainable Management of Natural Resources: Lessons from Wales’ (2018) 30 JEL 399, 421.

36 Government of Wales Act 2006, sch 7A, pt 1, para 2(1).

the Senedd and Welsh Ministers to create different environmental duties on the Crown Estate through the general devolved responsibility over the environment.

The Welsh framework for environmental law allows for the creation of separate standards that influence the activities of certain public authorities operating in Wales, which can include the Crown Estate. For example, under section 6 of the Environment (Wales) Act 2016, a public authority in Wales has a general legal duty to seek to maintain and enhance biodiversity, so far as this is consistent with the proper exercise of those functions.<sup>37</sup> The Crown Estate has regularly acknowledged its duty under section 6. Since 2019, the Crown Estate's annual *Wales Review* has included updates on its actions in relation to section 6 in its yearly action plans.<sup>38</sup> In fulfilling its statutory duty under the Welsh legislation,<sup>39</sup> the Crown Estate has also published a strategy document, *Our Nature Ambition for Wales*, detailing how it intends to comply with its section 6 duty in Wales.<sup>40</sup> While the section 6 duty is relatively narrow, its extension to the Crown Estate demonstrates how the Welsh devolution settlement does provide some scope for legal provisions to be created that are directly applicable on its operations in Wales.

Conversely, there are also examples of where the Crown Estate has not been included within the scope of Senedd legislation dealing with environmental matters in Wales. Under the Wellbeing of Future Generations (Wales) Act 2015, which includes an environmental wellbeing duty, the definition of a public authority does not include the Crown Estate.<sup>41</sup> Welsh Ministers have explained how the criteria for a public authority under this Act were attached to institutional funding arrangements.<sup>42</sup> These preclude the Crown Estate's operations in Wales, due to the nature of its assets being administered as a trust estate; however, there are also additional considerations on whether the broader purpose of the Act would be within competence if it sought to extend to the operation of the Crown Estate. More recently, attempts have been made in the UK Parliament to include the Crown Estate's operations in Wales within the scope of the environmental and other wellbeing duties under the Act.<sup>43</sup>

While the above demonstrates that the Welsh devolution settlement does provide some scope for distinct environmental obligations to be extended to the Crown Estate's operations in Wales, it also highlights the limitations on legislative and policy interventions that exist under the current classification of the Crown Estate as a reserved matter under the Government of Wales Act 2006. Specifically, this analysis shows how the Senedd's legislative competence currently prevents the creation of statutory obligations that would directly qualify the Crown Estate's socio-economic duty. As previously discussed, it would not be possible to directly qualify the general socio-economic duty without the devolution of the power to amend the statutory framework for the Crown Estate's governance structure and management practices.

Recent changes to the Crown Estate's management structure do show some signs of increased territorial representation, such as the creation of a Director for Wales in August 2022<sup>44</sup> and the new statutory requirement for Commissioners with Special Responsibility

37 Environment (Wales) Act 2016, s 6(1).

38 The Crown Estate, 'Wales Review 2024/25' (Cardiff, 2025).

39 Environment (Wales) Act 2016, s 6(6).

40 The Crown Estate, 'Our Nature Ambition for Wales: Section 6 Biodiversity and Resilience of Ecosystems Duty Report April 2023 to end March 2026' (Cardiff, January 2025).

41 Wellbeing of Future Generations (Wales) Act 2015, s 6.

42 National Assembly for Wales Environment and Sustainability Committee, *Wellbeing of Future Generations (Wales) Bill – Stage 1 Committee Report* (November 2014) 26.

43 Crown Estate Bill Deb 6 February 2025, col 14.

44 The Crown Estate, 'Wales Review 2022/23' (Cardiff, 2023).

for Wales, England, and Northern Ireland<sup>45</sup>; however, these are largely administrative charges and do not create an opportunity to qualify the general socio-economic duty. The precedent provided by Scotland demonstrates that for the Senedd and Welsh Government to enact substantive changes to the management practices of the Crown Estate in Wales, including measurable environmental obligations, it would require devolution of the management of the Crown Estate.

## 5. ADVANTAGES AND DISADVANTAGES OF DEVOLUTION OF THE CROWN ESTATE IN WALES

As discussed, the devolution settlement affords the possibility for exciting new approaches to environmental law in the UK, while simultaneously raising questions on the operability of divergent systems of environmental governance.<sup>46</sup> In regard to the latter point, the UK Government remains opposed to the devolution of the Crown Estate in Wales, stating that it would undermine investor confidence and risk creating further complexity and delay in the drive for energy security and net zero.<sup>47</sup> These potential risks have also been recognized by the Welsh Government<sup>48</sup> and the Senedd's Climate Change, Environment and Infrastructure Committee,<sup>49</sup> both of which concluded that any potential risks would need to be carefully managed if a future transfer scheme were to devolve the management of the Crown Estate in Wales.

The precedent set by the devolution of the Crown Estate in Scotland reduces the level of questionable risk. In practical terms, the period after the devolution of the Crown Estate in Scotland has seen continuity and growth in the number of renewable energy projects in Scotland and an increase in the economic value of the Scottish Crown Estate's assets from £455.6 million in 2021 to £665.6 million in 2024.<sup>50</sup> In policy terms, the Scottish example also demonstrates how devolution can provide a clearer link with government and a streamlining of processes that allow for increased engagement with local stakeholders in the production of renewable energy projects.<sup>51</sup> Finally, in legislative terms, the Scottish example provides a clear blueprint for how to devolve management of the Crown Estate and continues to inform the legislative attempts made by Plaid Cymru at Westminster to devolve the Crown Estate in Wales.<sup>52</sup>

Additionally, the devolution of the Crown Estate also affords the potential for a more joined up approach across devolved competencies, allowing for greater flexibility in other policy areas, including planning and renewable energy generation.<sup>53</sup> This was recognized as an important consideration by the Independent Commission on the Constitutional Future of Wales, which recently recommended the devolution of the Crown Estate in Wales so that

45 Crown Estate Act 1961, sch 1(1)(3B).

46 Robert G. Lee, 'Always Keep a Hold of Nurse: British Environmental Law and Exit from the European Union' (2017) 29 JEL 155, 164.

47 HC Deb 7 January 2025, vol 759, col 808.

48 Senedd Plenary 25 March 2025, para 425.

49 Welsh Parliament Climate Change, Environment and Infrastructure Committee, *Report on the Welsh Government's marine policies* (February 2022).

50 Crown Estate Scotland, 'Annual Report and Accounts to 31 March 2021' (Edinburgh, 2021); Crown Estate Scotland, 'Annual Report and Accounts to 31 March 2024' (Edinburgh 2024).

51 Welsh Parliament Climate Change, Environment and Infrastructure Committee, *Report on the Welsh Government's Marine Policies* (February 2022) 14.

52 See: Gareth Evans, 'The Devolution of the Crown Estate in Wales' U.K. Const. L. Blog (4 September 2025) <<https://ukconstitutionalaw.org/>> accessed 17 September 2025.

53 Wales Net Zero 2035 Challenge Group, 'Enabling the Transition to Net Zero by 2035' (16 September 2024) <<https://netzero2035.wales/our-reports/enabling-the-transition-to-net-zero-by-2035/>> accessed 10 December 2025.

Wales 'can maximise its contribution to net zero and to the local generation of renewable energy'.<sup>54</sup> Similarly, the Welsh Government's calls for the devolution of the Crown Estate have regularly been linked to the potential benefits it would afford in allowing Wales to more effectively reach its net zero targets.<sup>55</sup> This illustrates not only the importance of the management of the Crown Estate for environmental and climate objectives but also its interconnectedness with other areas of devolved responsibility and the wider issues this raises regarding the ability to effectively utilize areas of devolved competence.

## 6. CONCLUSION

While the devolution of the Crown Estate affords considerable potential for Wales' economic and environmental future, this analysis argues that any scheme of devolution must be met with ambitious targets for the regulation of the Crown Estate in relation to sustainable development and net zero targets. While this study has outlined the ability of the Senedd and Welsh Ministers to affect some changes in the Crown Estate's environmental management practices under the current devolved responsibility on the environment, it has also shown the limitations of this approach in influencing changes in the Crown Estate's socio-economic obligations for the management of its assets. For the reasons discussed above, this analysis has also confirmed the difficulties of implementing aspirational and performative duties in environmental law and the risks associated with attempts to balance environmental objectives with socio-economic obligations. Going forward, should the devolution of the Crown Estate takes place in Wales, the emphasis will rest with the Senedd to create an ambitious, achievable, and enforceable governance structure for the effective delivery of environmental and net zero targets by a Welsh Crown Estate.

## FUNDING

None declared.

<sup>54</sup> The Independent Commission on the Constitutional Future of Wales, *Final Report: January 2024* (2024) 71.

<sup>55</sup> Welsh Government, 'The Co-operation Agreement' (Cardiff 2021) 5.