



## Kew Gardens (Leases) (No. 3) Bill [HL] HL Bill 174 of 2017–19

### Summary

The [Kew Gardens \(Leases\) \(No. 3\) Bill \[HL\]](#) is a government bill that would extend the maximum allowable lease on Kew Gardens' land from the current 31 to 150 years. On 25 April 2019, Lord Gardiner of Kimble, the Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, introduced the bill in the House of Lords. It is due to have its second reading on 7 May 2019. The bill is almost identical to two private member's bills currently before Parliament. The first was introduced in the House of Lords by Lord True (Conservative) in July 2017, with the second being introduced in the House of Commons by Zac Goldsmith (Conservative MP for Richmond Park) in January 2018. Neither bill has yet received a second reading.

The Government has stated that the purpose of extending the lease is to enable the Royal Botanic Gardens (RBG), Kew to open new streams of revenue, enabling it to become more self-sufficient in funding. Currently, the freeholds for the land and buildings used by RBG Kew have different ownership, with the land and building at Kew owned by the Crown. It is funded through a combination of grant-in-aid from the Department for Environment, Food and Rural Affairs (DEFRA), self-generated income and charitable donations.

The purpose of RBG Kew has changed over time, from a philanthropic enterprise in the 18th and 19th centuries to botanical gardens and Kew Science today. In this time, the management has also changed, with the National Heritage Act 1983 creating a board of trustees. RBG Kew achieved UNESCO World Heritage Site status in 2003.

### Provisions of the Bill

Clause 1 would provide the Secretary of State with powers to grant a lease over land at the Royal Botanic Gardens, Kew for a term of up to 150 years. The clause would also remove the restrictions of the Crown Lands Act 1702 in respect of granting leases, which are currently limited to 31 years.

Clause 2 would provide for the bill's territorial extent, its commencement—the act would come into force two months after royal assent—and short title.

### Purpose of the Bill

The Government has stated that by extending the lease, "Kew Gardens can open up new streams of revenue".<sup>1</sup> It estimated revenue would be up to £40 million in the first ten years. The Department for Environment, Food and Rural Affairs (DEFRA) has produced explanatory notes for the bill. In the document, DEFRA set out the aim of the bill and detailed how it could generate income:

The aim is to enable Kew to increase its self-generated income. Income would be generated by

granting leases of up to 150 years (standard commercial and domestic terms) for the use of parts of the Kew Gardens estate for residential or commercial use. By granting leases of up to 150 years, Kew would transfer the liability and cost of maintaining these non-core assets to the leaseholder.<sup>2</sup>

Focusing on the bill's financial impact, DEFRA stated that “incomes from the change will depend on further development of Kew's Estates Strategy and third-party partnerships”. It also argued that most of the benefit “will accrue to Kew via capital receipts and cost avoidance, although there may also be ongoing revenue impacts over the lease period”. In addition, income generation and reduced maintenance costs were found to support Kew's targets for increasing self-generated income and becoming more financially self-sufficient.<sup>3</sup> DEFRA also stated that the ability to generate income would help RBG Kew to:

- improve the quality of its estate;
- support its scientific research in line with its plans;
- achieve its core objectives; and
- retain its UNESCO world heritage status.

Zac Goldsmith set out his view that the current lease is problematic when introducing his private member's bill to the House of Commons under the ten-minute rule in January 2018:

In practice, 31-year restrictions on leases are stifling, and Kew Gardens has struggled to find commercial interest. A 31-year limit is clearly not attractive to those who would seek to lease the buildings, but a 150-year lease clearly would be. I stress that the bill—this change—would not involve selling assets, nor would it be about renting out Kew Gardens.<sup>4</sup>

Also commenting, Richard Deverell, director of RBG Kew, said that the bill offers an “excellent opportunity” to attract private investment and would ensure that “we have an estate that supports the needs of the botanic gardens, the scientific team and our visitors for many years to come”.<sup>5</sup>

## **Royal Botanic Gardens, Kew: Overview**

### ***Purpose, Functions and Powers***

The purpose of the RBG Kew has changed over time.<sup>6</sup> Originally established by the Royal Family for private use, the gardens were funded as a philanthropic enterprise in the 18th and 19th centuries.<sup>7</sup> With the growth of Victorian railways, they later became a popular public destination. In 1983, section 24 of the National Heritage Act set out the statutory functions and powers of RBG Kew:

- carry out investigation and research into the science of plants and related subjects, and disseminate the results of the investigation and research;
- provide advice, instruction and education in relation to those aspects of the science of plants with which the Board are for the time being in fact concerned;
- provide other services (including quarantine) in relation to plants;
- care for their collections of plants, preserved plant material, other objects relating to plants, books and records;

- keep the collections as national reference collections, secure that they are available to persons for the purposes of study, and add to and adapt them as scientific needs and the Board's resources allow; and
- afford to members of the public opportunities to enter any land occupied or managed by the Board, for the purpose of gaining knowledge and enjoyment from the Board's collections.<sup>8</sup>

More recently, in 2003, RBG Kew achieved UNESCO World Heritage Site status due to the mix of science, amenity and architectural heritage represented by the site.<sup>9</sup> Over time, the gardens have grown in size, with buildings commissioned to meet a number of functions, not all related to botanical needs.

Today, RBG Kew consists of botanical gardens and Kew Science. Physically, it includes the land and buildings at Kew, in addition to further holdings at a secondary site, Wakehurst Place.<sup>10</sup> In the year ending 31 March 2018, there were over 2.1 million visitor admissions to both sites.<sup>11</sup> Over 350 scientists are employed by Kew Science, working across six research departments and supported by a library, art and archives department and the office of science directorate.<sup>12</sup> Plans for how Kew Science intends to contribute to plant and fungal science are set out in its *Science Strategy 2015–20*.<sup>13</sup> In addition, RBG Kew's objectives are detailed in its corporate strategy to 2020/21, *Unlocking Why Plants and Fungi Matter*.<sup>14</sup>

### **Management and Current Lease**

The management of RBG Kew has also changed over time. The National Heritage Act 1983 created the board of trustees and made RBG Kew a non-departmental public body with exempt charitable status.<sup>15</sup> The current relationship between RBG Kew—in particular, the board of trustees—and DEFRA (as its sponsoring department and principal charitable regulator) is set out in a framework document published by DEFRA in consultation with RBG Kew.<sup>16</sup>

The freeholds for the land and buildings used by RBG Kew have different ownership. The board of trustees only holds the title for the Wellcome Trust Millennium Building and adjacent land at Wakehurst Place (including Havelock Farm).<sup>17</sup> The Crown owns the land and buildings at Kew, while the National Trust owns the freehold of the remaining land at Wakehurst Place. However, the board of trustees is liable to maintain and replace all the buildings that they use. The length of the lease to the lands at Kew is currently limited to 31 years under the Crown Lands Act 1702 (section 5).<sup>18</sup>

### **Funding and 2015 Committee Report**

RBG Kew is funded through a combination of grant-in-aid from DEFRA, self-generated income and charitable donations.<sup>19</sup> Total income for 2017/18 was £111.7 million of which £40.8 million was grant-in-aid from DEFRA.<sup>20</sup>

Following reports of financial concerns in 2014, the funding and managements arrangements at RBG Kew came under scrutiny. In 2014, the *Guardian*—and other press outlets—reported that there was a £5 million deficit in RBG Kew's budget for 2014/15 due to a reduction in funding from the Government and other financial pressures.<sup>21</sup> The paper said that 125 jobs would be lost as a result, with RBG Kew's reputation as a leading research institution also at risk. The following year, the House of Commons Science and Technology Committee held an inquiry into funding and management arrangements at RBG Kew.<sup>22</sup> In its report, the committee stated that the Government's management of funding had exacerbated budget reductions and had "forced a more rapid change in scientific personnel than may otherwise have been necessary". It also found that the processes provided "little leeway" to deal with unexpected expenses and left RBG Kew unable to plan. To counter these issues, the committee argued

that RBG Kew should be given more freedom in managing its budget and a longer-term indication of the funding it would receive. Responding to the committee, the then Government said it recognised the “difficult financial position that Kew has been in” and announced a range of measures aimed at easing this.<sup>23</sup> In its latest annual report (2017/18), RBG Kew reported an operating surplus of £0.6 million, citing a “record breaking year for visitors” and strong commercial performance.<sup>24</sup>

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<sup>1</sup> Department for Environment, Food and Rural Affairs, [‘Bill Introduced to Allow Kew to Bloom for New Generations’](#), 25 April 2019.

<sup>2</sup> [Explanatory Notes](#), p 2.

<sup>3</sup> *ibid*, p 3.

<sup>4</sup> [HC Hansard, 30 January 2018, col 719](#).

<sup>5</sup> Department for Environment, Food and Rural Affairs, [‘Bill Introduced to Allow Kew to Bloom for New Generations’](#), 25 April 2019.

<sup>6</sup> A timeline of Kew’s history is available: Royal Botanic Gardens, Kew, [‘History of Kew’](#), accessed 1 May 2019.

<sup>7</sup> House of Commons Science and Technology Committee, [Royal Botanic Gardens, Kew](#), 4 March 2015, HC 866 of session 2014–15, p 5.

<sup>8</sup> National Heritage Act 1983, section 24.

<sup>9</sup> House of Commons Science and Technology Committee, [Royal Botanic Gardens, Kew](#), 4 March 2015, HC 866 of session 2014–15, p 6.

<sup>10</sup> *ibid*, p 5.

<sup>11</sup> Royal Botanic Gardens, Kew, [Annual Report and Accounts for the Year Ended 31 March 2018](#), 12 July 2018, HC 1233 of session 2017–19, p 7.

<sup>12</sup> Royal Botanic Gardens, Kew, [‘Our Science’](#), accessed 26 April 2019; and [‘Our Science Departments’](#), accessed 26 April 2019.

<sup>13</sup> Royal Botanic Gardens, Kew, [A Global Resource for Plant and Fungal Knowledge: Science Strategy 2015–20](#), 2015.

<sup>14</sup> Royal Botanic Gardens, Kew, [Unlocking Why Plants and Fungi Matter: Royal Botanic Gardens, Kew Strategy to 2020/21](#), 2017.

<sup>15</sup> National Heritage Act 1983.

<sup>16</sup> Department for Environment, Food and Rural Affairs, [Framework Document: Royal Botanic Gardens, Kew](#), June 2018, p 1.

<sup>17</sup> Royal Botanic Gardens, Kew, [Annual Report and Accounts for the Year Ended 31 March 2018](#), 12 July 2018, p 19.

<sup>18</sup> Crown Lands Act 1702, section 5.

<sup>19</sup> Department for Environment, Food and Rural Affairs, [Framework Document: Royal Botanic Gardens, Kew](#), June 2018, p 24.

<sup>20</sup> Royal Botanic Gardens, Kew, [Annual Report and Accounts for the Year Ended 31 March 2018](#), 12 July 2018, HC 1233 of session 2017–19, p 19.

<sup>21</sup> Ian Sample and Alice Bell, [‘Budget Cuts Threaten Kew Gardens’ World-Class Status’](#), *Guardian*, 24 April 2014; and House of Commons Science and Technology Committee, [Royal Botanic Gardens, Kew](#), 4 March 2015, HC 866 of session 2014–15, p 9.

<sup>22</sup> House of Commons Science and Technology Committee, [Royal Botanic Gardens, Kew](#), 4 March 2015, HC 866 of session 2014–15, p 3.

<sup>23</sup> HM Government, [Royal Botanic Gardens, Kew: Government Response to the Committee’s Seventh Report of Session 2014–15](#), 14 September 2015, HC 454 of session 2014–15.

<sup>24</sup> Royal Botanic Gardens, Kew, [Annual Report and Accounts for the Year Ended 31 March 2018](#), 12 July 2018, HC 1233 of session 2017–19, p 4.

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