



Enterprise and New Towns (Scotland) Act 1990

1990 CHAPTER 35

PART I

SCOTTISH ENTERPRISE AND HIGHLANDS AND ISLANDS ENTERPRISE

General

28 Application to Crown land.

- (1) No power (whether a power of compulsory acquisition or other compulsory power, a power to carry out works or a power of entry) which is conferred by or under this Part shall, except with the consent of the appropriate authority, be exercisable in relation to any land in which there is a Crown interest; that is to say, an interest—
 - (a) belonging to Her Majesty in right of the Crown; or
 - (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department.
- (2) A consent given for the purposes of subsection (1) above may be given on such conditions as the appropriate authority giving the consent may consider requisite.
- (3) Subject to subsection (1) above, the provisions of this Part shall have effect in relation to land in which there is a Crown interest as they have effect in relation to land in which there is no such interest.
- (4) In this section “the appropriate authority”—
 - (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;
 - (b) in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land [^{F1}or the relevant person] ; and

Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990, Cross Heading: General. (See end of Document for details)

(c) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

[^{F2}(5) In subsection (4), “relevant person”, in relation to any land to which section 90B(5) of the Scotland Act 1998 applies, means the person who manages that land.]

Textual Amendments

F1 Words in s. 28(4)(b) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 23\(a\)](#)

F2 S. 28(5) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 23\(b\)](#)

29 Service of documents.

- (1) Any document required or authorised by virtue of this Act to be served on any person may be served—
 - (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary of that body; or
 - (c) if the person is a firm, by serving it in accordance with paragraph (a) above on a partner or a person having the control or management of the firm.
- (2) For the purposes of this section and of section 7 of the ^{M1}Interpretation Act 1978 (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
 - (a) in the case of service on a body corporate or its secretary, it shall be the address of the registered or principal office of the body;
 - (b) in the case of service on a firm or a partner or a person having the control or management of a firm it shall be the address of the principal office of the firm;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a firm carrying on business outside the United Kingdom is its principal office within the United Kingdom.
- (3) If a person to be served by virtue of this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined in pursuance of subsection (2) above) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated as his proper address for the purposes of this section and for the purposes of the said section 7 in its application to this section.
- (4) If the name or address of any owner or occupier of land on whom by virtue of this Act any document is to be served cannot after reasonable inquiry be ascertained, the document may be served by—
 - (a) addressing it to him by the description of “owner” or “occupier” of the land (describing it); and

Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990, Cross Heading: General. (See end of Document for details)

- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.
- (5) This section shall not apply to any document in relation to the service of which provision is made by rules of court.
- (6) In this section “secretary”, in relation to a local authority within the meaning of the ^{M2}Local Government (Scotland) Act 1973, means the proper officer within the meaning of that Act.

Marginal Citations

- M1** 1978 c. 30.
- M2** 1973 c. 65.

30 Accounts and annual reports.

- (1) Scottish Enterprise and Highlands and Islands Enterprise shall each keep proper accounts, and other records in relation to the accounts, and shall prepare as respects each financial year a statement of account in such form as the Secretary of State may ^{F3} . . . determine.
- (2) The statements of account prepared under subsection (1) above shall be submitted to the Secretary of State at such time as he may direct.
- (3) The Secretary of State shall ^{F4} . . . , transmit to the [^{F5} Auditor General for Scotland for auditing] the statements of account submitted under subsection (2) above for the financial year last ended.
- ^{F6}(4)
- (5) Scottish Enterprise and Highlands and Islands Enterprise shall each provide the Secretary of State with such information relating to the exercise (and proposed exercise) of its functions as he may from time to time require, and for that purpose—
 - (a) shall permit any person authorised to do so by the Secretary of State ^{F7} . . . to inspect and make copies of its accounts, books, documents or papers; and
 - (b) shall provide that person with such explanations in relation to the things inspected as he may reasonably require.
- (6) As respects, and as soon as possible after the end of, each financial year, Scottish Enterprise and Highlands and Islands Enterprise shall each make to the Secretary of State a report on the exercise of its powers and performance of its functions under this Act.
- (7) Without prejudice to the generality of subsection (6) above, a report under that subsection by—
 - (a) Scottish Enterprise or Highlands and Islands Enterprise shall set out the terms of any direction given to the body in question under section 14(1) of this Act during the financial year to which the report relates, unless the direction is given by virtue of section 21(3)(b) of this Act;
 - (b) Highlands and Islands Enterprise—

Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990, Cross Heading: General. (See end of Document for details)

- (i) shall include a summary of any proposals submitted by it to the Secretary of State under section 5(1)(b) of this Act during the said financial year and, where he has refused to approve those proposals, a summary of the reasons given by him for so refusing;
 - (ii) shall not disclose any information obtained by virtue of section 11 of this Act without the consent mentioned in subsection (7) of that section.
- (8) The Secretary of State shall lay before each House of Parliament a copy of each report received by him under subsection (6) above.

Textual Amendments

- F3** Words in s. 30(1) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 100(7)**, Pt. IV
- F4** Words in s. 30(3) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 9(a)**; S.S.I. 2000/10, **art. 2(3)**
- F5** Words in s. 30(3) substituted (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 9(a)**; S.S.I. 2000/10, **art. 2(3)**
- F6** S. 30(4) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 9(b)**; S.S.I. 2000/10, **art. 2(3)**
- F7** Words in s. 30(5)(a) repealed (1.4.2000) by 2000 asp 1, s. 26, **Sch. 4 para. 9(c)**; S.S.I. 2000/10, **art. 2(3)**

31 Application and disapplication of certain provisions.

- (1) Section 9 of the ^{M3}Industry Act 1975 (the National Enterprise Board and the media) shall apply in relation to Scottish Enterprise as [^{F8}if any reference in that section to the Board were a reference to Scottish Enterprise].
- [^{F9}(2) Section 21 of the Financial Services and Markets Act 2000 (restrictions on financial promotion) shall not apply to any invitation or inducement (within the meaning of that section) which Scottish Enterprise communicates in the discharge of its functions.]

Textual Amendments

- F8** Words in s. 31(1) substituted (retrospective to 6.1.1992) by S.I. 1992/8, **arts. 2, 4**
- F9** S. 31(2) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 230**

Marginal Citations

- M3** 1975 c. 68.

32 Registration of agreements etc.

- [^{F10}(1) Scottish Enterprise or Highlands and Islands Enterprise, in exercising the powers and duties conferred on it by this Act, may as respects land which does not belong to it enter into an agreement with any person who has an interest in the land (provided that it is an interest which enables the person to bind the land) for the purpose of restricting or regulating, either permanently or during such period as may be prescribed by the agreement, the development or use of the land; and the agreement may be registered either—
- (a) in a case where the land affected by the agreement is registered in the Land Register of Scotland, in that register; or

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- (b) in any other case, in the appropriate Division of the General Register of Sasines.
- (1A) An agreement under subsection (1) above may contain such incidental and consequential provisions (including financial ones) as appear to the body in question to be necessary or expedient for the purposes of the agreement.]
- (2) Any agreement registered in terms of subsection (1) above shall be enforceable at the instance of Scottish Enterprise or Highlands and Islands Enterprise, as the case may be, against persons deriving title to the land from the person who entered into the agreement; but no such agreement shall be enforceable against a third party who in good faith and for value has acquired right (whether [^{F11}title has been completed] or not) to the land prior to the agreement being so registered, or against any person deriving title from that third party.
- (3) Notwithstanding the terms of any such agreement ^{F12}..., it shall be open at any time to the parties to the agreement, or to persons deriving title from the parties, as the case may be, to agree to terminate it; and where an agreement has been registered in terms of subsection (1) above, any subsequent agreement to terminate it shall be registered in the like manner.
- (4) Without prejudice to section 22(1)(b) of this Act, any agreement which, but for this Act, would be enforceable at the instance of the Highlands and Islands Development Board under subsection (4) of section 5 of the ^{M4}Highlands and Islands Development (Scotland) Act 1965 (recording of agreements arranged under subsection (3) of that section) shall be enforceable under subsection (2) above at the instance of Highlands and Islands Enterprise as if it were an agreement arranged by Highlands and Islands Enterprise and registered in terms of subsection (1) above.

Textual Amendments

- F10** S. 32(1)(1A) substituted for s. 32(1) (4.4.2003) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 113(3), 129(3) (with ss. 119, 121)
- F11** Words in s. 32(2) substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 paras. 52 (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2; S.S.I. 2003/456, art. 2
- F12** Words in s. 32(3) repealed (28.11.2004) by Title Conditions (Scotland) Act 2003 (asp 9), ss. 122(1), 129(2), Schs. 15 (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

Marginal Citations

- M4** 1965 c. 46.

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