



Enterprise and New Towns (Scotland) Act 1990

1990 CHAPTER 35

PART I

SCOTTISH ENTERPRISE AND HIGHLANDS AND ISLANDS ENTERPRISE

Powers

9 Powers of entry.

- (1) Subject to subsection (2) below, any person duly authorised in writing—
- (a) by Scottish Enterprise or by Highlands and Islands Enterprise (the body in question being in this paragraph referred to as the “authorising body”) may, at any reasonable time, enter upon land in order to survey it—
 - (i) where the authorising body has under consideration the lease or purchase of the land;
 - (ii) for the purpose of the erection of buildings or other structures, or the carrying out of works or other operations, on the land or the provision of equipment and services on or in connection with the land; or
 - (iii) for the purpose of determining whether, and if so in what manner, any of the functions of the authorising body (other than functions referred to in section 2(3), 4(1)(a) or (b) or as the case may be 5(1)(b) of this Act) should be exercised in relation to the land;
 - (b) by Highlands and Islands Enterprise may, at any reasonable time, enter upon land in order to survey it—
 - (i) in connection with any proposals for submission by Highlands and Islands Enterprise to the Secretary of State under the said section 5(1)(b) or with such proposals so submitted; or
 - (ii) for any purpose not mentioned in paragraph (a) or (b)(i) above but connected with the exercise of Highlands and Islands Enterprise’s

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functions under this Act (other than functions referred to in section 2(3) thereof).

- (2) A person authorised under this section to enter upon any land shall, if so required by the occupier or anyone acting on the occupier’s behalf, produce evidence of his authority, and shall not demand admission as of right to any land which is occupied unless at least fourteen days’ notice of the intended entry has been given to the occupier.
- (3) Where any land is damaged in the exercise of a power of entry conferred under this section or in the making of any survey for the purpose of which any such power of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from Scottish Enterprise or as the case may be from Highlands and Islands Enterprise; and the amount of such compensation shall, in the case of any dispute, be determined by the Lands Tribunal for Scotland.
- (4) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein if notice of the intention to do so has been included in the notice required by subsection (2) of this section; but if the land is held by statutory undertakers who object to the proposed works on the ground that carrying them out would be seriously detrimental to the carrying on of the statutory undertaking, the works shall not be carried out except with the authority of the appropriate Minister.
- (5) In subsection (4) above, “appropriate Minister” and “statutory undertakers” have the same meanings as they have respectively in [F1217 and 214 of the Town and Country Planning (Scotland) Act 1997].
- (6) A person entering upon any land by virtue of this section may take with him such other persons as may be necessary, and on leaving any premises which he has so entered and which are either unoccupied premises or premises the occupier of which is temporarily absent, shall leave them as effectively secured against unauthorised entry as he found them.
- (7) A person who wilfully obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) A person who, having in accordance with this section been admitted to a factory, workshop or workplace, discloses to any other person information thereby obtained as to any manufacturing process or trade secret shall, unless the disclosure was made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (9) Nothing in this section shall affect any rights conferred by or in accordance with [F2“the electronic communications code] on the operator of [F3an electronic communications code network] or any duty of any such operator under that code or apply to any [F4electronic communications apparatus] kept installed for the purposes of any [F5such network].

Textual Amendments

F1 Words in s. 9(5) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 47(2)**.

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- F2** Words in s. 9(9) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), **Sch. 1 para. 12(a)**
- F3** Words in s. 9(9) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), **Sch. 1 para. 12(b)**
- F4** Words in s. 9(9) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), **Sch. 1 para. 12(c)**
- F5** Words in s. 9(9) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), **Sch. 1 para. 12(d)**

Modifications etc. (not altering text)

- C1** S. 9 extended (1.3.1996) by 1995 c. 45, s. 16, **Sch. 4 para. 2(1)(xxxviii)**; S.I. 1996/218, **art. 2**.
S. 9 modified (1.3.1996) by 1995 c. 45, s. 16, **Sch. 4 para. 2(10)(h)**; S.I. 1996/218, **art. 2**.

Changes to legislation:

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