

*Status: Point in time view as at 01/04/1992.*

*Changes to legislation: There are currently no known outstanding effects for the Natural Heritage (Scotland) Act 1991, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 13.

#### ACCESS TO OPEN COUNTRY

- 1 Part II of the <sup>M1</sup>Countryside (Scotland) Act 1967 (access to open country) shall be amended as follows.

#### Commencement Information

**I1** Sch. 3 para. 1 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

#### Marginal Citations

**M1** 1967 c. 86.

- 2 In section 10, in subsection (2) (definition of “open country”) after the words “any landblank appearing” there shall be inserted the words “ to Scottish Natural Heritage or ”.

#### Commencement Information

**I2** Sch. 3 para. 2 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 3 (1) Section 13 (making of access agreements) shall be amended as follows.
- (2) For subsection (1) there shall be substituted the following subsection—
- “(1) An access agreement may be made—
- (a) by Scottish Natural Heritage with any person having an interest in land;
- (b) by a general or district planning authority with any person having an interest in land situated in the area of the authority,
- whereby the provisions of this Part of this Act relating to access agreements shall apply to the land.”
- (3) In subsection (2) after the words “payments by” there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, ”.
- (4) In subsection (7) after the words “confer any right against him, and” there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, ”.

#### Commencement Information

**I3** Sch. 3 para. 3 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 4 (1) Section 14 (making of access orders) shall be amended as follows.

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- (2) For subsection (1) there shall be substituted the following subsection—
- “(1) Subject to subsection (2) below, an access order may be made—
- (a) by Scottish Natural Heritage, as regards any land in Scotland;
  - (b) by a general or district planning authority, as regards any land in their area,
- but an order so made shall be submitted to the Secretary of State and shall not have effect unless confirmed by him.”
- (3) In subsection (2)—
- (a) in paragraph (a) for the word “authority” there shall be substituted the word “body”; and
  - (b) in paragraph (b) for the words “said authority” there shall be substituted the word “body”.
- (4) In subsection (3) for the words “said authority” there shall be substituted the word “body”.
- (5) In subsection (8) after the word “order” there shall be inserted the words “made by a general or district planning authority”.

#### Commencement Information

**I4** Sch. 3 para. 4 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 5 (1) Section 15 shall be amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a)—
    - (i) for the words “authority by whom” there shall be substituted the words “body by which”; and
    - (ii) for the word “authority” where it second occurs there shall be substituted the word “body”; and
  - (b) in paragraph (c) for the words “said authority” and “authority” where they respectively occur there shall be substituted the word “body”.
- (3) In subsection (3) the words “(whether made by the Secretary of State or by a local planning authority)” shall be omitted.
- (4) In subsection (4)—
- (a) after the words “Secretary of State” where they first occur, there shall be inserted the words “, except as regards an access order made by Scottish Natural Heritage, ”; and
  - (b) for the words “the local planning authority concerned” there shall be substituted the words “the body by which the order was made”.

#### Commencement Information

**I5** Sch. 3 para. 5 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 6 In section 16, for subsection (5) there shall be substituted the following subsections—

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- “(5) As soon as practicable after an agreement or instrument such as is mentioned in subsection (4) above is made or an order so mentioned is confirmed, it shall be registered or, as the case may be, recorded in pursuance of subsection (6) or (7) below.
- (6) In the case of an agreement or order made by Scottish Natural Heritage or an instrument or order varying or revoking such an agreement or order—
- (a) if an interest in the land to which the agreement, instrument or order relates falls to be registered in the Land Register of Scotland, Scottish Natural Heritage shall cause the agreement, instrument or order to be registered in that register;
  - (b) in any other case it shall cause the agreement, instrument or order to be recorded in the appropriate Division of the General Register of Sasines.
- (7) In the case of an agreement or order made by the general or district planning authority or an instrument or order varying or revoking such an agreement or order—
- (a) if an interest in the land to which the agreement, instrument or order relates falls to be registered in the Land Register of Scotland, the general or district planning authority shall cause the agreement, instrument or order to be registered in that register;
  - (b) in any other case they shall cause the agreement, instrument or order to be recorded in the appropriate Division of the General Register of Sasines.
- (8) Subject to subsection (9) below, an agreement, instrument or order registered or recorded in pursuance of subsection (6) or, as the case may be, subsection (7) above shall be enforceable at the instance of respectively Scottish Natural Heritage or the general or district planning authority against persons deriving title to the land or the relevant interest therein from the person so entitled when the agreement, instrument or order was made.
- (9) An agreement, instrument or order shall not be enforceable as mentioned in subsection (8) above against a third party who has in good faith and for value acquired right (whether completed by infestment or not) to the land or to the relevant interest therein prior to the agreement, instrument or order being registered or, as the case may be, recorded in pursuance of subsection (6) or (7) above, or against any person deriving title from such third party.
- (10) In this section “relevant interest” means an interest which is subject to an agreement, instrument or order such as is mentioned in subsection (4) above.”

#### Commencement Information

**I6** Sch. 3 para. 6 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 7 (1) Section 17 shall be amended as follows.
- (2) In subsection (4)—
- (a) for the words from the beginning to “situated” there shall be substituted the words “ Where, as regards any access agreement or order made by Scottish

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Natural Heritage or a general or district planning authority, it appears to it or them ”;

- (b) for the words “an access” there shall be substituted the word “ the ”;
- (c) after the words “subsection (2) above,” there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, ”; and
- (d) for the words “the authority” where they second occur there shall be substituted the words “ Scottish Natural Heritage or the authority, it or, as the case may be, they ”.

(3) In subsection (5)—

- (a) for the words “the local planning authority” in both places where they occur there shall be substituted the words “ Scottish Natural Heritage or, as the case may be, the general or district planning authority ”;
- (b) after the words “fourteen days’ notice of” there shall be inserted the words “ its or ”;
- (c) before the words “the authority” in both places where they occur there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, ”;
- (d) after the words “reasonably incurred by” there shall be inserted the words “ it or ”;
- (e) after the words “reduced by” there shall be inserted the words “ its or ”; and
- (f) for the words “authority’s contribution” there shall be substituted the words “ contribution of Scottish Natural Heritage or, as the case may be, the authority ”.

#### Commencement Information

**I7** Sch. 3 para. 7 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

8 (1) Section 18 shall be amended as follows.

(2) In subsection (1)—

- (a) for the words from “the last foregoing section” to the words “contravention occurred” there shall be substituted the words “section 17 of this Act—
  - (a) if the agreement or order was made by Scottish Natural Heritage, it;
  - (b) if the agreement or order was made by the general or district planning authority, they,”;
- (b) after the words “as may appear to” there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, ”.

(3) In subsection (2)—

- (a) for the words “the local planning authority” there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, the general or district planning authority ”; and
- (b) before the word “them” there shall be substituted the words “ it or ”.

#### Commencement Information

**I8** Sch. 3 para. 8 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

9 (1) Section 20 shall be amended as follows.

*Status: Point in time view as at 01/04/1992.*

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- (2) For the words from “the general or district” to “situated” there shall be substituted the words “—
- (a) where the order was made by Scottish Natural Heritage, it; or
  - (b) where the order was made by a general or district planning authority, they,” and the words from the beginning of the section to the words “depreciation or damage” shall become subsection (1) of the section.
- (3) In the proviso the words “Provided that” shall be omitted and the remaining words of the proviso shall become subsection (2) of the section.

**Commencement Information**

**I9** Sch. 3 para. 9 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 10 (1) Section 22 shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “local planning authority by whom” there shall be substituted the words “ body by which ”; and
  - (b) for the word “authority” there shall be substituted the word “ body ”.
- (3) In subsection (3) for the words “local planning authority” there shall be substituted the words “ body by which compensation is payable ”.

**Commencement Information**

**I10** Sch. 3 para. 10 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 11 (1) Section 23 shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “local planning authority” there shall be substituted the words “ body by which compensation is payable ”;
  - (b) for the words “authority are” there shall be substituted the words “ body is ”; and
  - (c) for the word “they” in both places where it occurs there shall be substituted the word “ it ”.
- (3) In subsection (2)—
- (a) for the words “local planning authority” and the word “authority” where they respectively occur there shall be substituted the word “ body ”;
  - (b) for the word “their” there shall be substituted the word “ its ”; and
  - (c) for the word “they” there shall be substituted the word “ it ”.

**Commencement Information**

**I11** Sch. 3 para. 11 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 12 (1) Section 24 shall be amended as follows.
- (2) In subsection (1)—

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- (a) after the words “Where it appears” there shall be inserted the words “ to Scottish Natural Heritage as respects any land in Scotland or ”;
  - (b) in paragraph (b) for the words “the local planning authority” there shall be substituted the words “ Scottish Natural Heritage or, as the case may be, the general or district planning authority ”; and
  - (c) before the words “the authority” in both places where they occur there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, ”.
- (3) In subsection (2)—
- (a) for the words “A local planning authority” there shall be substituted the words “ Scottish Natural Heritage or, as the case may be, a general or district planning authority ”;
  - (b) before the word “them” in each place where it occurs there shall be inserted the words “ it or ”; and
  - (c) before the word “they” there shall be inserted the words “ it or ”.
- (4) In subsection (3)—
- (a) for the words “a local planning authority” there shall be substituted the words “ Scottish Natural Heritage or, as the case may be, a general or district planning authority ”;
  - (b) before the word “them” there shall be inserted the words “ it or ”; and
  - (c) before the words “the authority” in each place where they occur there shall be inserted the words “ Scottish Natural Heritage or ”.

#### Commencement Information

**I12** Sch. 3 para. 12 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

13 In section 26 at the end there shall be inserted the following subsection—

- “(3) Scottish Natural Heritage shall, within 14 days of—
- (a) an access agreement having been made by it; or
  - (b) an access order made by it having been confirmed,
- send to the general or district planning authority in whose area the land to which the agreement or order applies is situated a copy of such agreement or order.”

#### Commencement Information

**I13** Sch. 3 para. 13 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

14 (1) Section 27 shall be amended as follows.

- (2) In subsection (1) for the word “authority” in each place where it occurs there shall be substituted the word “ body ”.
- (3) In subsection (2)—
  - (a) for the words “authority by whom” there shall be substituted the words “ body by which ”; and
  - (b) for the word “authority” where it second occurs there shall be substituted the word “ body ”.

*Status: Point in time view as at 01/04/1992.*

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- (4) In subsection (3) for the words “said authority” in each place where they occur there shall be substituted the word “ body ”.
- (5) In subsection (4)—
- (a) at the beginning there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, ”;
  - (b) before the words “the authority” there shall be inserted the words “ Scottish Natural Heritage or ”; and
  - (c) before the word “them” there shall be inserted the words “ it or ”.
- (6) In subsection (5) for the words from “a local planning authority” to the end there shall be substituted the words “ Scottish Natural Heritage or a general or district planning authority as respects land held by it or them ”.

**Commencement Information**

**I14** Sch. 3 para. 14 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 15 (1) In section 28—
- (a) for the words “A general or district planning authority” there shall be substituted the words “ Where Scottish Natural Heritage or, as the case may be, a general or district planning authority have made an access agreement or order it or they ”; and
  - (b) after the words “comprised in” there shall be inserted the word “ such ”.

**Commencement Information**

**I15** Sch. 3 para. 15 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

- 16 (1) Section 29 shall be amended as follows.
- (2) At the beginning there shall be inserted the words “ Scottish Natural Heritage or, as the case may be, ”.
  - (3) The words “in their area” shall be omitted.
  - (4) After the word “order” there shall be inserted the words “ made by it or them ”.

**Commencement Information**

**I16** Sch. 3 para. 16 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, art. 4

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