

FLOOD RISK MANAGEMENT (SCOTLAND) ACT

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 7 – Reservoirs

Section 90 – Reservoirs Act 1975: Crown application

248. This section inserts a new section 27B into the 1975 Act. This makes provision for the 1975 Act to apply to the Crown in Scotland. The new section is similar to section 27A which was inserted into the 1975 Act by the Water Act 2003 and which makes provision for the Act to apply to the Crown in England and Wales.
249. Subsection (1) of section 27B provides that the 1975 Act binds the Crown.
250. Subsection (2) and (3) of section 27B provide that the Crown will not be criminally liable for any contravention of the 1975 Act but allows SEPA to apply to the Court of Session for a declaration that any act of the Crown is in contravention of the Act.
251. Subsection (4) of section 27B provides that any provision made by or under this Act applies to persons in the service of the Crown as it applies to other persons.
252. Subsection (5) and (6) of section 27B limit powers of entry to Crown land by requiring the consent of an appropriate authority to be obtained before the powers can be exercised. Subsection (6) defines “Crown land” and “appropriate authority” and subsection (8) provides for the Scottish Ministers to determine any questions about who the appropriate authority is in relation to any land.