



# Pow of Inchaffray Drainage Commission (Scotland) Act 2019

2019 asp 2

## PART 3

### MISCELLANEOUS AND GENERAL

#### 17 Access

- (1) The Commission, its agents and its contractors may take access, where necessary with plant and vehicles, over the benefited land and the affected land for any purpose connected with the Commission's functions, rights or obligations under this Act.
- (2) The Commission must—
  - (a) except in the case of an emergency, give not less than seven days' notice to each owner of land over which access is required,
  - (b) make good, or pay compensation for, any resulting damage to land or buildings.
- (3) Access may be taken to a building only with the consent of the owner or occupier of the building.

#### 18 Notice of planning applications

For the purposes of section 35(1) of the Town and Country Planning (Scotland) Act 1997, the Commission is to be treated as an owner of the benefited land and the affected land.

#### 19 Consent for activities affecting the Pow and adjacent land etc.

- (1) A person, other than a local authority, must not do any of the following without first obtaining consent from the Commission—
  - (a) any thing that will or may—
    - (i) obstruct the Pow,
    - (ii) limit or restrict access permitted under section 17(1),
  - (b) discharge any thing into, or abstract water from, the Pow.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The procedure for seeking consent is in schedule 6.
- (3) If a person contravenes subsection (1), the Commission may by notice require the person to—
  - (a) remedy the contravention within such period as the Commission may specify in the notice,
  - (b) reimburse the Commission for costs, if any, incurred by the Commission as a consequence of such contravention.
- (4) Where a person fails to comply with a notice under subsection (3)(a), the Commission may—
  - (a) remedy the contravention, and
  - (b) by notice require the person to reimburse the Commission for the costs incurred by the Commission in doing so.
- (5) Where a notice under subsection (3)(b) or subsection (4)(b) requires costs to be reimbursed to the Commission—
  - (a) the notice must include a breakdown and explanation of the costs,
  - (b) the person is to make payment to the Commission within 28 days of receipt of the notice.
- (6) Except in the case of an emergency, a local authority must give not less than seven days' prior notice to the Commission before doing anything described in subsection (1)
  - (a). In the case of an emergency, the local authority must notify the Commission as soon as reasonably practicable.

## **20 Liability of persons exercising functions**

- (1) A Commissioner is not liable in any civil or criminal proceedings for anything done in the purported exercise of any function of the Commission if acting in good faith.
- (2) Subsection (1) does not affect the liability of any other person in respect of the thing done.

## **21 Court proceedings**

An amount that is due and payable to the Commission under this Act may be sued for and recovered from the person liable to pay it as a debt due to the Commission, by proceedings in the sheriff court.

## **22 Interest on sums due**

An amount payable to the Commission under this Act that is not paid by the due date carries interest from the due date at—

- (a) the judicial rate, or
- (b) such lower rate as the Commission may determine from time to time.

## **23 Certification of land plans**

Copies of the land plans certified a true copy by the Clerk shall be admissible in any proceedings as sufficient evidence of the contents of the land plans.

## **24 Service of notices**

Schedule 7 makes provision about giving notices.