



# 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; and

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*Status: This is the original version (as it was originally enacted).*

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- (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.

## 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 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
  - (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 Local Government (Scotland) Act 1973, means the proper officer within the meaning of that Act.

### **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, with the approval of the Treasury, 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, on or before the last day of the month of November in each year, transmit to the Comptroller and Auditor General the statements of account submitted under subsection (2) above for the financial year last ended.
- (4) The Comptroller and Auditor General shall examine and certify the statements of account transmitted to him under subsection (3) above and shall lay before each House of Parliament copies of those statements of account together with his report on them.
- (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 or the Comptroller and Auditor General 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—
    - (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.

### **31 Application and disapplication of certain provisions**

- (1) Section 9 of the Industry Act 1975 (the National Enterprise Board and the media) shall apply in relation to Scottish Enterprise as it applies in relation to that Board.

- (2) Section 57 of the Financial Services Act 1986 (restrictions on advertising) shall not apply to any investment advertisement, within the meaning of that section, which Scottish Enterprise issues or causes to be issued in the discharge of its functions.

### **32 Registration of agreements etc**

- (1) Where a person having such interest in land as enables him to bind the land enters into any such agreement as is mentioned in section 8(6) of this Act, the agreement may be registered either—
- (a) where the land affected by the agreement is registered in the Land Register of Scotland, in that register; or
  - (b) in any other case, in the appropriate Division of the General Register of Sasines.
- (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 completed by infestment 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 as is mentioned in section 8(6) of this Act, 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 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.