



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART XII

CROWN LAND

Preliminary

[^{F1}241A Application to the Crown

- (1) This Act binds the Crown.
- (2) But subsection (1) is subject to express provision made by this Part.]

Textual Amendments

- F1** S. 241A inserted (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 90(1)**, 121(4) (with s. 111); [S.S.I. 2006/268](#), art. 3(a)

242 Preliminary definitions.

- (1) In this Part—
 - “Crown land” means land in which there is a Crown interest;
 - [^{F2} “Crown interest” means any of the following—
 - (a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates,
 - (b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department,
 - (c) such other interest as the Scottish Ministers specify by order;]
 - “private interest” means interest which is not a Crown interest.

Status: Point in time view as at 01/04/2017.

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- (2) For the purposes of this Part “the appropriate authority”, in relation to any land—
- (a) in the case of 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 [^{F3} or the relevant person] ; and
 - [^{F4}(ba) in relation to land belonging to Her Majesty in right of Her private estates means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers;]
 - (c) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.
- [^{F5}(2ZA) In subsection (2), “relevant person”, in relation to any property, rights or interests to which section 90B(5) of the Scotland Act 1998 applies, means the person who manages that property or those rights or interests.]
- [^{F6}(2A) For the purposes of an application for planning permission made by or on behalf of the Crown in respect of land which does not belong to the Crown or in respect of which the Crown has no interest, a reference to the appropriate authority must be construed as a reference to the person who makes the application.]
- (3) 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.
- [^{F7}(3A) References to Her Majesty’s private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).]
- [^{F8}(4)]
- [^{F9}(5) An order made for the purposes of paragraph (c) of the definition of Crown interest in subsection (1) must be made by statutory instrument.
- (6) But no such order may be made unless a draft of it has been laid before and approved by resolution of the Scottish Parliament.]

Textual Amendments

- F2** Words in s. 242(1) substituted (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by Planning and Compulsory Purchase Act 2004 (c. 5), s. 121(4), **Sch. 5 para. 6(2)** (with s. 111); S.S.I. 2006/101, art. 2, sch.; S.S.I. 2006/268, art. 3(f)
- F3** Words in s. 242(2)(b) inserted (1.4.2017) by The Crown Estate Transfer Scheme 2017 (S.I. 2017/524), art. 1(2), **Sch. 5 para. 29(4)(a)**
- F4** S. 242(2)(ba) inserted (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by Planning and Compulsory Purchase Act 2004 (c. 5), s. 121(4), **Sch. 5 para. 6(3)** (with s. 111); S.S.I. 2006/101, art. 2, sch.; S.S.I. 2006/268, art. 3(f)
- F5** S. 242(2ZA) inserted (1.4.2017) by The Crown Estate Transfer Scheme 2017 (S.I. 2017/524), art. 1(2), **Sch. 5 para. 29(4)(b)**
- F6** S. 242(2A) inserted (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by Planning and Compulsory Purchase Act 2004 (c. 5), s. 121(4), **Sch. 5 para. 6(4)** (with s. 111); S.S.I. 2006/101, art. 2, sch.; S.S.I. 2006/268, art. 3(f)
- F7** S. 242(3A) inserted (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by Planning and Compulsory Purchase Act 2004 (c. 5), s. 121(4), **Sch. 5 para. 6(5)** (with s. 111); S.S.I. 2006/101, art. 2, sch.; S.S.I. 2006/268, art. 3(f)

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- F8** S. 242(4) repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), [Sch. 5 para. 23](#), [Sch. 9](#) (with s. 111); [S.S.I. 2006/268](#), art. 3(e)(f)
- F9** S. 242(5)(6) inserted (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), [Sch. 5 para. 6\(6\)](#) (with s. 111); [S.S.I. 2006/101](#), art. 2, sch.; [S.S.I. 2006/268](#), art. 3(f)

Application of Act as respects Crown land

[^{F10}242A Urgent Crown development: application

- (1) This section applies to a development if the appropriate authority certifies—
 - (a) that the development is of national importance, and
 - (b) that it is necessary that the development is carried out as a matter of urgency.
- (2) The appropriate authority may, instead of making an application for planning permission to the planning authority in accordance with Part 3, make an application for planning permission to the Scottish Ministers under this section.
- (3) If the appropriate authority proposes to make the application to the Scottish Ministers, it must publish in one or more newspapers circulating in the locality of the proposed development a notice—
 - (a) describing the proposed development, and
 - (b) stating that the authority proposes to make the application to the Scottish Ministers.
- (4) For the purposes of an application under this section the appropriate authority must provide to the Scottish Ministers—
 - (a) any matter required to be provided by an applicant for planning permission in pursuance of regulations made under section 40,
 - (b) a statement of the authority's grounds for making the application.
- (5) If the appropriate authority makes an application under this section subsections (6) to (11) below apply.
- (6) The Scottish Ministers may require the authority to provide them with such further information as they think necessary to enable them to determine the application.
- (7) As soon as practicable after they are provided with any document or other matter in pursuance of subsection (4) or (6) the Scottish Ministers must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.
- (8) The Scottish Ministers must in accordance with such requirements as they may specify in a development order publish notice of the application and of the fact that such documents and other material are available for inspection.
- (9) The Scottish Ministers must consult—
 - (a) the planning authority, and
 - (b) such other persons as may be so specified,about the application.
- (10) Subsection (7) above does not apply to the extent that the document or other matter is subject to any direction given under section 265A(3) of this Act.

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(11) Subsections (4) [^{F11}and] (7) of section 46 apply to an application under this section as they apply to an application in respect of which a direction under section 46 has effect.]

Textual Amendments

- F10** S. 242A inserted (20.3.2006 for specified purposes, 11.5.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 92(1)**, 121(4) (with s. 111); S.S.I. 2006/101, art. 2, sch.; S.S.I. 2006/243, art. 3
- F11** Word in s. 242A(11) substituted (3.8.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 54(13)**, 59(2) (with S.S.I. 2009/222, **art. 13**; S.S.I. 2009/219, art. 2, sch.

^{F12}**243 Control of development on Crown land: special enforcement notices.**

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Textual Amendments

- F12** S. 243 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), Sch. 5 para. 9(1), **Sch. 9** (with s. 111, Sch. 5 para. 9(2)); S.S.I. 2006/268, art. 3(e)(f)

^{F13}**244 Supplementary provisions as to special enforcement notices.**

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Textual Amendments

- F13** S. 244 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), Sch. 5 para. 9(1), **Sch. 9** (with s. 111, Sch. 5 para. 9(2)); S.S.I. 2006/268, art. 3(e)(f)

^{F14}**245 Exercise of powers in relation to Crown land.**

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Textual Amendments

- F14** S. 245 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 94(1)**, 121(4), **Sch. 9** (with s. 111); S.S.I. 2006/268, art. 3(b)(e)

[^{F15}**245A Enforcement in relation to the Crown**

- (1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act; but the Court of Session may, on the application of a public authority or office-holder responsible for the enforcement of anything required to be done, or prohibited, by or under this Act, declare unlawful any act or omission so done or suffered.
- (2) A planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.

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- (3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.
- (4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.
- (5) A step taken for the purposes of enforcement includes—
 - (a) entering land,
 - (b) initiating proceedings,
 - (c) the making of an application.
- (6) A step taken for the purposes of enforcement does not include—
 - (a) service of a notice,
 - (b) the making of an order (other than a court order).]

Textual Amendments

F15 S. 245A inserted (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 94(2)**, 121(4) (with s. 111); [S.S.I. 2006/268](#), art. 3(b)

[^{F16}245B References to an interest in land

- (1) Subsection (2) applies to the extent that an interest in land is a Crown interest.
- (2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.
- (3) An interest in land includes an interest only as occupier of the land.]

Textual Amendments

F16 S. 245B inserted (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 94(3)**, 121(4) (with s. 111); [S.S.I. 2006/268](#), art. 3(b)

^{F17}246 Agreements relating to Crown land.

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Textual Amendments

F17 S. 246 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), [Sch. 5 para. 23](#), **Sch. 9** (with s. 111); [S.S.I. 2006/268](#), art. 3(e)(f)

^{F18}247 Supplementary provisions as to Crown interest.

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Textual Amendments

F18 S. 247 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), [Sch. 9](#) (with s. 111); S.S.I. 2006/268, art. 3(e)

[^{F19}247A Applications for planning permission by Crown

- (1) This section applies to an application for planning permission or for a certificate under section 151 made by or on behalf of the Crown.
- (2) The Scottish Ministers may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.
- (3) A statutory provision is a provision contained in or having effect under any enactment (including any enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament).]

Textual Amendments

F19 S. 247A inserted (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), [Sch. 5 para. 10\(1\)](#) (with s. 111); S.S.I. 2006/101, art. 2, sch.; S.S.I. 2006/268, art. 3(f)

Provisions relating to anticipated disposal of Crown land

^{F20}248 Application for planning permission etc. in anticipation of disposal of Crown land.

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Textual Amendments

F20 S. 248 repealed (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), [Sch. 5 para. 10\(2\)](#), [Sch. 9](#) (with s. 111, [Sch. 5 para. 10\(3\)](#)); S.S.I. 2006/101, art. 2, Sch., S.S.I. 2006/268, art. 3(f)

^{F21}249 Tree preservation orders in anticipation of disposal of Crown land.

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Textual Amendments

F21 S. 249 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), [Sch. 5 para. 25\(1\)](#), [Sch. 9](#) (with s. 111, [Sch. 5 para. 25\(2\)](#)); S.S.I. 2006/268, art. 3(e)(f)

^{F22}250 Requirement of planning permission for continuance of use instituted by the Crown.

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Textual Amendments

F22 S. 250 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), Sch. 5 para. 26(1), [Sch. 9](#) (with s. 111, Sch. 5 para. 26(2)); S.S.I. 2006/268, art. 3(e)(f)

Enforcement in respect of war-time breaches of planning control by the Crown

251 Enforcement in respect of war-time breaches of planning control by the Crown.

- (1) This section applies where during the war period—
 - (a) works not complying with planning control were carried out on land, or
 - (b) a use of land not complying with planning control was begun by or on behalf of the Crown.
- (2) Subject to subsection (4), if at any time after the end of the war period there subsists in the land a permanent or long-term interest which is neither held by or on behalf of the Crown nor subject to any interest or right to possession so held, the planning control shall, so long as such an interest subsists in the land, be enforceable in respect of those works or that use notwithstanding—
 - (a) that the works were carried out or the land used by or on behalf of the Crown, or
 - (b) the subsistence in the land of any interest of the landlord in a lease held by or on behalf of the Crown.
- (3) A person entitled to make an application under this subsection with respect to any land may apply at any time before the relevant date to an authority responsible for enforcing any planning control for a determination—
 - (a) whether works on the land carried out, or a use of the land begun, during the war period fail to comply with any planning control which the authority are responsible for enforcing, and
 - (b) if so, whether the works or use should be deemed to comply with that control.
- (4) Where any works on land carried out, or use of land begun, during the war period remain or continues after the relevant date and no such determination has been given, the works or use shall by virtue of this subsection be treated for all purposes as complying with that control unless steps for enforcing the control have been begun before that date.
- (5) Schedule 17 shall have effect for the purpose of making supplementary provision concerning the enforcement of breaches of planning control to which this section applies and the making and determination of applications under subsection (3).
- (6) In this section and that Schedule—

“authority responsible for enforcing planning control” means, in relation to any works on land or use of land, the authority empowered by virtue of section 72 of the 1947 Act or of paragraph 28 of Schedule 22 to the 1972 Act (including that paragraph as it continues in effect by virtue of paragraph 3 of Schedule 3 to the ^{M1}Planning (Consequential Provisions) (Scotland) Act 1997) to serve an enforcement notice in respect of it or the authority who would be so empowered if the works had been carried out, or the use begun, otherwise than in compliance with planning control;

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“the relevant date”, in relation to any land, means the date with which the period of 5 years from the end of the war period ends, but for the purposes of this definition any time during which, notwithstanding subsection (2), planning control is unenforceable by reason of the subsistence in or over the land of any interest or right to possession held by or on behalf of the Crown shall be disregarded;

“owner” includes in relation to any land any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and “owned” shall be construed accordingly;

“permanent or long-term interest”, in relation to any land, means the interest of the proprietor of the dominium utile or, in the case of land other than feudal land, of the owner, a tenancy of the land granted for a term of more than 10 years and not subject to a subsisting right of the landlord to determine the tenancy at or before the expiration of 10 years from the beginning of the term, or a tenancy granted for a term of 10 years or less with a right of renewal which would enable the tenant to prolong the term of the tenancy beyond 10 years;

“tenancy” includes a tenancy under a sub-lease and a tenancy under an agreement for a lease or sub-lease, but does not include an option to take a tenancy and does not include a mortgage;

“war period” means the period extending from 3rd September 1939 to 26th March 1946; and

“works” includes any building, structure, excavation or other work on land.

(7) References in this section and that Schedule to non-compliance with planning control mean—

- (a) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to a resolution to prepare a scheme under the ^{M2}Town and Country Planning (Scotland) Act 1932, that the works were carried out or the use begun otherwise than in accordance with the terms of an interim development order or of permission granted under such an order, and
- (b) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to such a scheme, that the works were carried out or the use begun otherwise than in conformity with the provisions of the scheme,

and references in this Act to compliance with planning control shall be construed accordingly.

(8) References in this section and that Schedule to the enforcement of planning control shall be construed as references to the exercise of the powers conferred by section 72 of the 1947 Act or by paragraph 28 of Schedule 22 to the 1972 Act (including that paragraph as it continues in effect by virtue of Schedule 3 to the ^{M3}Planning (Consequential Provisions) (Scotland) Act 1997).

Marginal Citations

M1 1997 c. 11.

M2 1932 c. 49.

M3 1997 c. 11.

Status:

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Changes to legislation:

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