



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART XII **S**

#### CROWN LAND

##### *Application of Act as respects Crown land*

#### **243 Control of development on Crown land: special enforcement notices. **S****

- (1) No enforcement notice shall be served under section 127 in respect of development carried out by or on behalf of the Crown after 1st July 1948 on land which was Crown land at the time when the development was carried out.
- (2) The following provisions of this section apply to development of Crown land carried out otherwise than by or on behalf of the Crown at a time when no person is entitled to occupy it by virtue of a private interest.
- (3) Where—
  - (a) it appears to a planning authority that development to which this section applies has taken place in their district, and
  - (b) they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations,they may issue a notice under this section (a “special enforcement notice”).
- (4) No special enforcement notice shall be issued except with the consent of the appropriate authority.
- (5) A special enforcement notice shall specify—
  - (a) the matters alleged to constitute development to which this section applies, and

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- (b) the steps which the authority issuing the notice require to be taken for restoring the land to its condition before the development took place or for discontinuing any use of the land which has been instituted by the development.
- (6) A special enforcement notice shall also specify—
  - (a) the date on which it is to take effect (“the specified date”), and
  - (b) the period within which any such steps as are mentioned in subsection (5)(b) are to be taken.
- (7) A special enforcement notice may specify different periods for the taking of different steps.

#### **244 Supplementary provisions as to special enforcement notices. S**

- (1) Not later than 28 days after the date of the issue of a special enforcement notice and not later than 28 days before the specified date, the planning authority who issued it shall serve a copy of it—
  - (a) on the person who carried out the development alleged in the notice,
  - (b) on any person who is occupying the land when the notice is issued, and
  - (c) on the appropriate authority.
- (2) The planning authority need not serve a copy of the notice on the person mentioned in subsection (1)(a) if they are unable after reasonable enquiry to identify or trace him.
- (3) Any such person as mentioned in subsection (1)(a) or (b) may, at any time before the date specified in the notice as the date on which it is to take effect, appeal against the notice to the Secretary of State on the ground that the matters alleged in the notice—
  - (a) have not taken place, or
  - (b) do not constitute development to which section 243 applies.
- (4) A person may appeal against a special enforcement notice under subsection (3) whether or not he was served with a copy of it.
- (5) The provisions contained in or having effect under sections 130(2) and (3), 131(1) to (3), 132 and 133(1) shall apply to special enforcement notices issued by planning authorities and to appeals against them under subsection (3) as they apply to enforcement notices and to appeals under section 130.
- (6) The Secretary of State may by regulations apply to special enforcement notices and to appeals under subsection (3) such other provisions of this Act (with such modifications as he thinks fit) as he thinks necessary or expedient.

#### **245 Exercise of powers in relation to Crown land. S**

- (1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—
  - (a) a plan approved, adopted or made under Part II may include proposals relating to the use of Crown land;
  - (b) any power to acquire land compulsorily under Part VIII may be exercised in relation to any interest in Crown land which is for the time being held otherwise than by or on behalf of the Crown;

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- (c) any restrictions or powers imposed or conferred by Part III, VI or VII, by the provisions of Chapter I of Part V relating to purchase notices, or by any of the provisions of sections 218 to 222, shall apply and be exercisable in relation to Crown land, to the extent of any interest in it for the time being held otherwise than by or on behalf of the Crown.
- (2) Except with the consent of the appropriate authority—
  - (a) no order or notice shall be made, issued or served under any of the provisions of section 71, 72, 125, 127, 129, 140, 145, 160 or 179 or paragraphs 1, 3, 5 and 6 of Schedule 8 or under any of those provisions as applied by any order or regulations made under Part VII, in relation to land which for the time being is Crown land;
  - (b) no interest in land which for the time being is Crown land shall be acquired compulsorily under Part VIII.
- (3) No purchase notice shall be served in relation to any interest in Crown land unless—
  - (a) an offer has been previously made by the owner of that interest to dispose of it to the appropriate authority on equivalent terms, and
  - (b) that offer has been refused by the appropriate authority.
- (4) In subsection (3) “equivalent terms” means that the price payable for the interest shall be equal to (and shall, in default of agreement, be determined in the same manner as) the compensation which would be payable in respect of it if it were acquired in pursuance of a purchase notice.
- (5) The rights conferred by the provisions of Chapter II of Part V shall be exercisable by a person who (within the meaning of those provisions) is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident owner-occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and those provisions shall apply accordingly.

## **246 Agreements relating to Crown land. S**

- (1) The appropriate authority and the planning authority for the district in which any Crown land is situated may make agreements—
  - (a) for securing the use of the land, so far as may be prescribed by any such agreement, in conformity with the provisions of the development plan applicable to it, and
  - (b) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement.
- (2) Any such agreement may contain such consequential provisions, including provisions of a financial character, as may appear to be necessary or expedient having regard to the purposes of the agreement.
- (3) Subject to subsection (4), an agreement made under subsection (1)(b) may, if it has been recorded in the appropriate Register of Sasines or, as the case may be, registered in the Land Register of Scotland, be enforceable at the instance of the planning authority against persons deriving title to the land from the appropriate authority.
- (4) An agreement made under subsection (1)(b) shall not be enforceable against a third party who has in good faith and for value acquired right (whether completed by

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infetment or not) to the land prior to the agreement being so recorded or, as the case may be, registered or against any person deriving title from such a third party.

- (5) An agreement made under this section by a government department shall not have effect unless it is approved by the Treasury.
- (6) In considering whether to make or approve an agreement under this section relating—
- (a) to land belonging to a government department, or
  - (b) to land held in trust for Her Majesty for the purposes of a government department,

the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

## **247 Supplementary provisions as to Crown interest. S**

Where there is a Crown interest in any land, sections 78 to 82 of this Act, and Schedule 3 to the <sup>M1</sup>Planning (Consequential Provisions) (Scotland) Act 1997 in so far as it relates to those sections or sections 155 to 157 of the 1972 Act, shall have effect in relation to any private interest as if the Crown interest were a private interest.

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### **Marginal Citations**

**M1** 1997 c. 11.

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