

## SCHEDULES

### SCHEDULE 19

Section 137

#### APPLICATION OF PART 7 TO CROWN LAND

#### PART 1

#### GENERAL

##### *Application of Part 7*

- 1 Part 7 applies in relation to Crown land as it applies in relation to any other land, subject to the provisions of this Schedule.

##### *Interpretation*

- 2 (1) In this Schedule—
- (a) “Crown land” means land in relation which there is an estate in land of a kind listed in column 1 of the following Table, and
  - (b) “the appropriate authority”, in relation to any Crown land, means the authority specified in column 2 for the estate in land in question.

<i>Estate in land</i>	<i>Appropriate authority</i>
Estate belonging to Her Majesty in right of the Crown (other than estate vesting as bona vacantia)	The Crown Estate Commissioners or other government department having management of the land
Estate vesting in Her Majesty in right of the Crown as bona vacantia	The Treasury Solicitor
Estate belonging to Her Majesty in right of Her private estates	A person appointed by Her Majesty under the Royal Sign Manual, or, if no such appointment is made, the Secretary of State
Estate belonging to Her Majesty in right of the Duchy of Lancaster	The Chancellor of the Duchy of Lancaster
Estate belonging to the Duchy of Cornwall	Such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints
Estate belonging to a government department or held in trust for Her Majesty for the purposes of a government department	That department

- (2) References in this Schedule to Part 7 are to Part 7 of this Act (apart from this Schedule and Schedule 20).

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- (3) If any question arises as to what authority is the appropriate authority in relation to any Crown land, that question is to be referred to the Treasury, whose decision is final.
- (4) In this paragraph the reference to Her Majesty's private estates is to be read in accordance with section 1 of the Crown Private Estates Act 1862.

#### *Demesne land*

- 3 (1) Where land belongs to Her Majesty in right of the Crown but is not held for an estate in fee simple absolute in possession—
  - (a) Her Majesty in right of the Crown is to be regarded for the purposes of Part 7 and this Schedule as holding an estate in fee simple absolute in possession in the land, and
  - (b) any estate granted or created out of the land is to be regarded for those purposes as derived from that estate in fee simple.
- (2) The land referred to in sub-paragraph (1) does not include land which becomes subject to escheat on the determination of an estate in fee simple absolute in possession in the land if—
  - (a) it is land to which an obligation under a conservation covenant related when the estate determined, or
  - (b) it is not land to which such an obligation related at that time and Her Majesty in right of the Crown has not taken possession or control of the land, or entered into occupation of it.

#### *Land subject to escheat*

- 4 (1) This paragraph applies where land becomes subject to escheat on the determination of an estate in fee simple absolute in possession in land to which an obligation under a conservation covenant relates.
- (2) The conservation covenant is not terminated on the determination of that estate, even though the appropriate authority has no liability in respect of the obligation unless and until the Crown—
  - (a) takes possession or control of the land, or enters into occupation of it, or
  - (b) becomes the holder of—
    - (i) an estate granted by the Crown out of the land, or
    - (ii) an estate in land derived (whether immediately or otherwise) from an estate falling within sub-paragraph (i).
- (3) If the Crown takes possession or control of the land, or enters into occupation of it—
  - (a) the Crown is to be regarded for the purposes of Part 7 and this Schedule as holding an estate in fee simple in possession in the land, and
  - (b) that estate is to be regarded for those purposes as immediately derived from the determined estate.
- (4) If the Crown grants an estate out of the land after having previously taken possession or control of the land, or entered into occupation of it, the estate is to be regarded for the purposes of Part 7 and this Schedule as immediately derived from the estate mentioned in sub-paragraph (3)(a).

- (5) But if the Crown grants an estate out of the land without having previously taken possession or control of the land, or entered into occupation of it—
- (a) the acts of the Crown in granting that estate are not to be regarded for the purposes of Part 7 and this Schedule as taking possession or control of the land, or entering into occupation of it, and
  - (b) the new estate is to be regarded for those purposes as immediately derived from the determined estate.
- (6) In this paragraph and paragraph 5 “the Crown” means Her Majesty in right of the Crown or of the Duchy of Lancaster, or the Duchy of Cornwall, as the case may be.

#### *Bona vacantia*

- 5 (1) This paragraph applies where an estate in land to which an obligation of the landowner under a conservation covenant relates vests in the Crown as bona vacantia.
- (2) The appropriate authority has no liability in respect of the obligation in relation to any period before the Crown takes possession or control of the land or enters into occupation of it.

## **PART 2**

### CONSERVATION COVENANTS RELATING TO CROWN LAND HELD BY A PERSON OTHER THAN THE APPROPRIATE AUTHORITY

#### *Agreements for the purposes of section 117*

- 6 (1) If Crown land which is a qualifying estate is held by a person other than the appropriate authority, the appropriate authority may, as respects that qualifying estate, enter into a conservation covenant agreement, in place of the holder of the estate.
- (2) An authority that enters into such an agreement by virtue of sub-paragraph (1) is to be treated for the purposes of section 117 as the holder of the qualifying estate (instead of the person in whose place the authority is acting).

#### *Modification of Part 7 in relation to obligations under certain Crown conservation covenants*

- 7 (1) Paragraphs 8 to 12 modify Part 7 in its application to obligations under a conservation covenant created by an agreement entered into by virtue of paragraph 6(1).
- (2) In those paragraphs, in relation to an obligation under the conservation covenant—
- “the appropriate authority” means the appropriate authority with respect to the estate in land of the original landowner which is the qualifying estate in relation to the obligation, and
  - “the original landowner” means the person who held the qualifying estate when the agreement was entered into.
- 8 References in Part 7 to an obligation of the landowner under a conservation covenant are to be read as references to an obligation of the appropriate authority under the conservation covenant.

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- 9 (1) Section 122 has effect with the following modifications in its application to an obligation mentioned in paragraph 8.
- (2) In subsection (2)—
- (a) in paragraph (a), the reference to the landowner under the covenant is to be read as a reference to the appropriate authority, and
  - (b) in paragraph (b), the reference to the landowner under the covenant is to be read as a reference to the original landowner.
- (3) In subsection (3) the reference to the landowner under the covenant is to be read as a reference to the original landowner.
- (4) In subsection (4)—
- (a) in the opening words and in paragraph (b), the reference to the landowner under the covenant is to be read as a reference to the appropriate authority,
  - (b) in the opening words, the reference to a successor of that landowner is to be read as a reference to a successor of the original landowner, and
  - (c) in paragraph (b), the reference to land in relation to which the landowner ceases to be the holder of the qualifying estate is to be read as a reference to land in relation to which the original landowner ceases to be the holder of the qualifying estate.
- (5) Subsection (5)(c) has effect, if the successor’s immediate predecessor was the original landowner, as if the reference to the successor’s immediate predecessor were a reference to the appropriate authority.
- 10 (1) Section 123 has effect with the following modifications in its application to an obligation of the responsible body under the conservation covenant.
- (2) In subsection (1)—
- (a) in paragraph (a), the reference to the landowner under the covenant is to be read as a reference to the appropriate authority, and
  - (b) in paragraph (b), the reference to the landowner under the covenant is to be read as a reference to the original landowner.
- (3) In subsection (2) the reference to the landowner under the covenant is to be read as a reference to the original landowner.
- (4) In subsection (3)—
- (a) in the opening words and in paragraph (b), the reference to the landowner under the covenant is to be read as a reference to the appropriate authority,
  - (b) in the opening words, the reference to a successor of that landowner is to be read as a reference to a successor of the original landowner, and
  - (c) in paragraph (b), the reference to land in relation to which the landowner ceases to be the holder of the qualifying estate is to be read as a reference to land in relation to which the original landowner ceases to be the holder of the qualifying estate.
- 11 In section 129(4)(b) and (5) the references to a successor of a person bound by the modification (where the person bound is the appropriate authority) are to be read as references to a successor of the original landowner.
- 12 In Schedule 18—
- (a) the references in paragraphs 1(1) and 6(1) to a person bound by, or entitled to the benefit of, an obligation under a conservation covenant by virtue of

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- holding an estate in land are to be read as references to the appropriate authority;
- (b) the references in paragraphs 2(2) and 7(2) to any person who by virtue of holding an estate in land is bound by or entitled to the benefit of an obligation are to be read as references to the appropriate authority;
  - (c) the references in paragraph 12(1)(b) and (2) to a successor of a person bound by the modification (where the person bound is the appropriate authority) are to be read as references to a successor of the original landowner.

### PART 3

#### OTHER MODIFICATIONS OF PART 7

*Cases where estate in land to which conservation covenant relates has been acquired by the Crown and is held by person other than the appropriate authority*

- 13 (1) Paragraphs 14 to 17 apply where the estate in land by virtue of which a person is a successor of the landowner under a conservation covenant is held by or on behalf of the Crown by a person other than the appropriate authority.
- (2) In sub-paragraph (1) “successor” (in relation to the landowner under the covenant) means a person who holds, in respect of any of the land to which any obligation under the covenant relates—
- (a) the qualifying estate, or
  - (b) an estate in land derived (whether immediately or otherwise) from the qualifying estate after the creation of the covenant.
- 14 In section 122—
- (a) subsections (2)(b), (3) and (4) have effect as if the estate in land were held by the appropriate authority, and
  - (b) subsection (5)(c) has effect, in relation to a disposal of the estate in land, as if the successor’s immediate predecessor were the appropriate authority.
- 15 In section 123—
- (a) subsections (1)(b), (2) and (4) have effect as if the estate in land were held by the appropriate authority, and
  - (b) subsection (4) has effect as if the reference to the successor were a reference to the appropriate authority.
- 16 (1) In section 129(4)(b) and (5) references to a successor of a person bound by the modification (where the person bound is the appropriate authority) are to be read as references to a successor of the person in whose place the appropriate authority acts.
- (2) In section 129(4)(b) and (5) references to a successor of a person bound by the modification (where the person bound is not the appropriate authority) are to be read as if the estate in any of the land to which the modification relates which is held by the person in whose place the appropriate authority acts were held by the appropriate authority.
- 17 In Schedule 18—

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- (a) the reference in paragraph 6(1) to a person bound by an obligation under a conservation covenant by virtue of holding an estate in land is to be read as a reference to the appropriate authority;
- (b) the reference in paragraph 7(2) to any person who is bound by or entitled to the benefit of an obligation by virtue of holding an estate in land is to be read as a reference to the appropriate authority;
- (c) the references in paragraph 12(1)(b) and (2) to a successor of a person bound by the modification (where the person bound is the appropriate authority) are to be read as references to a successor of the person in whose place the appropriate authority is acting.

*Agreements under section 127(1) and (3)*

- 18 (1) This paragraph applies where, in respect of any of the land to which an obligation of the landowner under a conservation covenant relates, the qualifying estate is held by or on behalf of the Crown by a person other than the appropriate authority.
- (2) The appropriate authority may enter into an agreement under section 127(1) or (3) in place of the holder of that estate.
- (3) An agreement entered into by virtue of sub-paragraph (2) is to be treated for the purposes of section 127(4)(c) as entered into by virtue of the estate in land held by the person in whose place the appropriate authority enters into the agreement.

*Agreements under section 128(1)*

- 19 (1) This paragraph applies if the responsible body under a conservation covenant enters into an agreement under section 128(1) in relation to an obligation which it owes to the other party to the agreement by virtue of paragraph 10(2)(a) or 15(a).
- (2) If the other party is entitled to the benefit of the obligation by virtue of paragraph 10(2)(a), the reference in section 128(2)(c) to the estate in land by virtue of which the power is exercisable is to be read as a reference to the estate in land held by the person in whose place the other party acted in entering into the agreement which gave rise to the obligation.
- (3) If the other party is entitled to the benefit of the obligation by virtue of paragraph 15(a), the reference in section 128(2)(c) to the estate in land by virtue of which the power is exercisable is to be read as a reference to the estate in land which the other party is treated by paragraph 15(a) as holding.

*Agreements under section 129(1)*

- 20 (1) Sub-paragraph (2) applies where a person who—
- (a) is bound by an obligation of the landowner under the covenant by virtue of paragraph 9(2)(a), or
  - (b) is entitled to the benefit of the obligation of the responsible body under a conservation covenant by virtue of paragraph 10(2)(a),
- exercises the power under section 129(1) to modify the obligation.
- (2) The reference in section 129(3)(c) to the estate in land by virtue of which the power is exercisable is to be read as a reference to the estate in land held by the person in

whose place the person exercising that power acted in entering into the agreement which gave rise to the obligation.

- 21 (1) Sub-paragraph (2) applies where a person who—
- (a) is bound by an obligation of the landowner under a conservation covenant by virtue of paragraph 14(a), or
  - (b) is entitled to the benefit of an obligation of the responsible body under a conservation covenant by virtue of paragraph 15(a),
- exercises the power in section 129(1) to modify the obligation.
- (2) The reference in section 129(3)(c) to the estate in land by virtue of which the power is exercisable is to be read as a reference to the estate in land which the person is treated by paragraph 14(a) or 15(a) as holding.