



Natural Heritage (Scotland) Act 1991

1991 CHAPTER 28

PART IV

GENERAL

23 Finance.

There shall be defrayed out of money provided by Parliament—

- (a) any expenses of the Secretary of State incurred under this Act; and
- (b) any increase attributable to this Act in the sums so payable under any other enactment.

Commencement Information

II [S. 23](#) wholly in force at 1.10.1991 see [s. 28\(2\)](#) and [S.I. 1991/2187, art. 3, Sch.](#)

24 Rights of entry and inspection under Parts II and III.

(1) Any person duly authorised in writing by a river purification authority, a water authority or a water development board may at any reasonable time enter upon any land for the purpose of—

- (a) exercising any power or performing any duty conferred or imposed on the authority or board or that person by virtue of Part II or III of this Act;
- (b) determining whether circumstances exist which require the exercise of such a power or performance of such a duty and, if so, in what manner such power or duty should be exercised or performed;
- (c) determining whether any provision of either of these Parts of this Act or of an instrument made by virtue of one of these Parts is being complied with; or
- (d) carrying out such inspections, measurements and tests on the land or of any articles, including water, on it and taking away such samples of the land or such articles as he considers appropriate for such inspections, measurements or tests.

Status: Point in time view as at 27/11/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Natural Heritage (Scotland) Act 1991, Part IV. (See end of Document for details)

- (2) Subject to subsection (3) below, if the sheriff is satisfied that there is a reasonable ground for entry upon any land which a person is entitled to enter in pursuance of subsection (1) above and—
- (a) that admission to that land has been refused;
 - (b) that such refusal is apprehended;
 - (c) that entry upon the land was sought in an emergency;
 - (d) that the land is unoccupied or the occupier is temporarily absent; or
 - (e) that an application for admission to the land would defeat the object of the entry,
- then the sheriff may grant a warrant authorising that person to enter the land, if necessary using such force as is reasonable in all the circumstances.
- (3) Without prejudice to subsection (6) below, in any case to which paragraph (a) or (b) of subsection (2) above applies the sheriff shall not grant a warrant unless he is satisfied that a notice of the intended entry has been served on the occupier of the land not less than seven days before the demand for entry was made.
- (4) A warrant issued in pursuance of this section shall continue in force until the purpose for which the entry is required has been satisfied.
- (5) A person authorised to enter upon any land in pursuance of this section—
- (a) shall, if so required, produce evidence of his authority before he enters upon the land; and
 - (b) may take with him on to the land such other persons and such equipment as may be necessary.
- (6) Admission to any land used for residential purposes and admission with heavy equipment to any other land shall not, except—
- (a) in an emergency;
 - (b) in a case where land is unoccupied; or
 - (c) in a case where to serve notice of intended entry would defeat the object of the entry,
- be demanded as of right in pursuance of subsection (1) above unless a notice of intended entry has been served on the occupier not less than seven days before the demand is made.
- (7) A person who, in the exercise of the powers conferred on him by virtue of this section, enters upon any land which is unoccupied or from which the occupier is temporarily absent shall leave the land as effectively secured against unauthorised entry as he found it.
- (8) A person who wilfully obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) It shall be the duty of a river purification authority, water authority or water development board to compensate any person who has sustained loss or damage by reason of—
- (a) the exercise by a person authorised by the authority or board of any powers conferred on him by virtue of this section; or
 - (b) the failure of a person so authorised to perform the duty imposed on him by subsection (7) above; or

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- (c) the occupation and use of land authorised by a drought order by virtue of paragraph 5 of Schedule 7 to this Act,
except where the loss or damage is attributable to the fault of the person who sustained it; and any dispute as to a person's entitlement to compensation in pursuance of this subsection or as to the amount of the compensation shall be determined by arbitration.
- (10) Any reference in this section to an emergency is a reference to a case where a person requiring entry upon land has reasonable cause to believe that—
- (a) there is a reduction in the volume, or a deterioration in the quality, of water such as would be likely to endanger human life or health or adversely affect the viability of aquatic flora or fauna; and
- (b) immediate entry is necessary to verify the existence of these circumstances or to ascertain their cause or to effect a remedy.
- (11) In this section “land” includes a vessel.

Commencement Information

I2 S. 24 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

25 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 or clerk of that body; or
- (c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or a person having the control or management of the partnership business.
- (2) For the purpose of this section and section 7 of the ^{M1}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 or clerk, it shall be the address of the registered or principal office of the body;
- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership;
- and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership 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 purpose of this section and for the purpose of the said section 7 in its application to this section.

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- (4) Where under any provision of this Act any document is required to be served on the owner or on the occupier of any land then—
- (a) if the name or address of the owner or, as the case may be, of the occupier of the land cannot after reasonable inquiry be ascertained; or
 - (b) in the case of service on the occupier, if the land appears to be or is unoccupied, that document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on 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.

Commencement Information

I3 S. 25 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, **Sch.**

Marginal Citations

M1 1978 c. 30.

26 Offences by persons other than natural persons.

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to the negligence of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) Where an offence under this Act is committed by a partnership or by an unincorporated association (other than a partnership) and is proved to have been committed with the consent or connivance of, or to be attributable to the negligence of, a partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he (as well as the partnership or association) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Commencement Information

I4 S. 26 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, **Sch.**

VALID FROM 01/04/1996

[^{F1}26A Meaning of SEPA.

In this Act “SEPA” means the Scottish Environment Protection Agency.]

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Textual Amendments

- F1** S. 26A inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 96(6)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

27 Consequential and miscellaneous amendments and repeals.

- (1) The enactments specified in Schedule 10 to this Act shall have effect subject to the amendments specified in that Schedule.
- (2) The enactments specified in Schedule 11 of this Act are hereby repealed to the extent specified in the third column of that Schedule.

Commencement Information

- I5** S. 27 wholly in force at 1.4.1992; S. 27 not in force at Royal Assent see s. 28(2); S. 27 in force for certain purposes at 1.10.1991 by S.I. 1991/2187, **art. 3, Sch.** and in force for certain purposes at 27.11.1991 and at 1.4.1992 (insofar as not already in force) by S.I. 1991/2633, **arts. 3, 4, Sch.**

28 Short title, commencement and extent.

- (1) This Act may be cited as the Natural Heritage (Scotland) Act 1991.
- (2) This Act shall come into force on such date as the Secretary of State may, by order made by statutory instrument appoint and different days may be so appointed for different provisions or for different purposes.
- (3) An order under subsection (2) above may make such transitional provision as appears to the Secretary of State necessary or expedient in connection with the provision brought into force by the order.
- (4) Subject to subsection (5) below, this Act extends to Scotland only.
- (5) Section 4(2) and (4) of this Act and so much of sections 4(10) and 27 of and Schedules 2, 10 and 11 to this Act as relates to enactments extending to England and Wales shall extend also to England and Wales.

Subordinate Legislation Made

- P1** S. 28(2):S. 28(2) power exercised by S.I. 1991/2187
S. 28(2):S. 28(2) power exercised by S.I. 1991/2633

Commencement Information

- I6** S. 28 wholly in force at 27.11.1991 see s. 28(2) and S.I. 1991/2633, **art. 3, Sch.**

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Changes to legislation:

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