



Natural Heritage (Scotland) Act 1991

1991 CHAPTER 28

PART I

SCOTTISH NATURAL HERITAGE

Functions of SNH

7 Powers of entry.

- (1) For the purpose of surveying land in connection with—
 - (a) the exercise or the proposed exercise of any of the functions of SNH under this Act or any other enactment in relation to land;
 - (b) the making of an access order by SNH under Part II of the ^{M1}Countryside (Scotland) Act 1967; or
 - (c) the acquisition under this Act or any other enactment of land or of any interest in land whether by agreement or compulsorily,any person duly authorised in writing by SNH may, at any reasonable time, enter upon the land.
- (2) For the purpose of surveying land, or of estimating its value, in connection with any claim for compensation payable by SNH by virtue of—
 - (a) Part II of the Countryside (Scotland) Act 1967; or
 - (b) this Part of this Act,in respect of that or any other land, any person being an officer of the Valuation Office of the Inland Revenue Department or a person duly authorised in writing by SNH may, at any reasonable time, enter upon the land.
- (3) A person authorised under this section to enter upon any land shall, if so required by the occupier or anyone acting on his behalf, produce evidence of his authority, and shall not demand admission as of right to any land which is occupied unless at least fourteen days' notice in writing of the intended entry has been given to the occupier and, where practicable, to the owner.

Status: Point in time view as at 01/03/1996. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Natural Heritage (Scotland) Act 1991, Section 7. (See end of Document for details)

- (4) The power conferred on SNH in connection with the exercise of its functions under section 5 of this Act shall be construed as including power to search and bore for the purpose of ascertaining the nature of the soil or subsoil or the presence of minerals.
- (5) No works authorised by subsection (4) above shall be carried out unless notice of the intention to do so has been included in a notice under subsection (3) above, and if the land in question is held by any statutory undertaker and such undertaker objects to the proposed works on the ground that carrying out such works would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister ^{F1}. . . .

[^{F2}(5A) In subsection (5) above, “appropriate Minister” has the same meaning as in section 213(1) of the Town and Country Planning (Scotland) Act 1972; but this subsection is subject to paragraph 2(10) of Schedule 4 to the Gas Act 1995.]

- (6) Subject to subsection (7) 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 this section and—
- (a) that admission to that land has been refused;
 - (b) that such refusal is apprehended; or
 - (c) that the land is unoccupied or the occupier is temporarily absent,

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, and a warrant issued in pursuance of this section shall continue in force until the purpose for which the entry is required has been satisfied.

- (7) Without prejudice to subsection (3) above, in any case to which paragraph (a) or (b) of subsection (6) 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 and, where practicable, on the owner not less than fourteen days before the demand for entry was made.
- (8) A person entering upon any land by virtue of this section may take with him such other persons and such equipment as may be necessary, and on leaving any land upon which he has so entered, being either unoccupied land, or land from which the occupier is temporarily absent, shall leave it as effectively secured against unauthorised entry as he found it.
- (9) A person who wilfully obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (10) It shall be the duty of SNH to compensate any person who has sustained damage by reason of—
- (a) the exercise by a person authorised by SNH 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 (8) above,

except where the 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.

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- (11) SNH shall not authorise any person to exercise a power to enter land under section 108 of the National Parks and Access to the ^{M2}Countryside Act 1949; but nothing in this subsection shall affect the validity of anything done in pursuance of an authorisation granted before the date of coming into force of this section by the Nature Conservancy Council for Scotland.

Textual Amendments

- F1** Words in s. 7(5) repealed (1.3.1996) by 1995 c. 45, s. 16(1), 17(5), Sch. 4 para. 20(a), **Sch. 6**; S.I. 1996/218, **art. 2**
- F2** S. 7(5A) inserted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 20(b)**; S.I. 1996/218, **art. 2**

Modifications etc. (not altering text)

- C1** S. 7(5) modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(i)**; S.I. 1996/218, **art. 2**
S. 7(5) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxxix)**; S.I. 1996/218, **art. 2**

Commencement Information

- I1** S. 7 wholly in force at 1.4.1992 see s. 28(2) and S.I. 1991/2633, **art. 4**

Marginal Citations

- M1** 1967 c. 86.
M2 1949 c. 97.

Status:

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Changes to legislation:

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