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SCHEDULES

SCHEDULE 21

APPLICATION OF CERTAIN ENACTMENTS TO THE CROWN

PART II

ENACTMENTS RELATING TO SCOTLAND

PROSPECTIVE

The Sewerage (Scotland) Act 1968

3 For section 55 of the ^{M1}Sewerage (Scotland) Act 1968 (Crown application) there shall be substituted—

“55 Application of Act to Crown.

- (1) Subject to the provisions of this section, this Act shall bind the Crown.
- (2) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the Court of Session may, on the application of a sewerage authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Notwithstanding anything in subsection (2) above, any provision made by or under this Act shall apply to persons in the public service of the Crown as it applies to other persons.
- (4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.
- (5) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity.
- (6) In this section “Crown premises” means premises held by or on behalf of the Crown.”

Marginal Citations

M1 1968 c.47.

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The Control of Pollution Act 1974

4 For subsection (3) of section 105 of the ^{M2}Control of Pollution Act 1974 (application to Crown) as it has effect in relation to Scotland, there shall be substituted the following subsections—

“(3) Subject to subsections (3A) to (3D) below, this Act shall bind the Crown.

(3A) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the Court of Session may, on the application of—

- (a) the Scottish Environment Protection Agency; or
- (b) any other public or local authority charged with enforcing that provision,

declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3B) Notwithstanding anything in subsection (3A) above, any provision made by or under this Act shall apply to persons in the public service of the Crown as it applies to other persons.

(3C) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises; and in this subsection “Crown premises” means premises held or used by or on behalf of the Crown.

(3D) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity.”

Marginal Citations

M2 1974 c. 40.

PROSPECTIVE

The Water (Scotland) Act 1980

5 After section 110 of the ^{M3}Water (Scotland) Act 1980 there shall be inserted—

“110A Application of Act to Crown.

(1) Subject to the provisions of this section, this Act shall bind the Crown.

(2) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the Court of Session may, on the application of a water authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.

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- (3) Notwithstanding anything in subsection (2) above, any provision made by or under this Act shall apply to persons in the public service of the Crown as it applies to other persons.
- (4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.
- (5) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity.
- (6) Subject to subsections (4) and (5) above, the powers conferred by sections 16 to 18 above shall be exercisable in relation to land in which there is a Crown interest only with the consent of the appropriate authority.
- (7) In this section—
 - “the appropriate authority” has the same meaning as it has in section 253(7) of the ^{M4}Town and Country Planning (Scotland) Act 1972;
 - “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
 - “Crown premises” means premises held by or on behalf of the Crown.
- (8) The provisions of subsection (7) of section 253 of the ^{M5}Town and Country Planning (Scotland) Act 1972 (questions relating to Crown application) as to the determination of questions shall apply for the purposes of this section.”.

Marginal Citations

- M3** 1980 c. 45.
M4 1972 c. 52.
M5 1972 c. 52.

PROSPECTIVE

The Local Government etc. (Scotland) Act 1994

- 6 After section 125 of the ^{M6}Local Government etc. (Scotland) Act 1994 there shall be inserted—

“125A Application of Part II to Crown.

- (1) Subject to the provisions of this section, this Part of this Act shall bind the Crown.

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- (2) No contravention by the Crown of any provision made by or under this Part of this Act shall make the Crown criminally liable; but the Court of Session may, on the application of a new water and sewerage authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Notwithstanding anything in subsection (2) above, any provision made by or under this Part of this Act shall apply to persons in the public service of the Crown as it applies to other persons.
- (4) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity.
- (5) Subject to subsection (4) above, the powers conferred by section 99 above shall be exercisable in relation to land in which there is a Crown interest only with the consent of the appropriate authority.
- (6) In this section—
 “the appropriate authority” has the same meaning as it has in section 253(7) of the ^{M7}Town and Country Planning (Scotland) Act 1972;
 “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
 “Crown premises” means premises held by or on behalf of the Crown.
- (7) The provisions of subsection (7) of section 253 of the ^{M8}Town and Country Planning (Scotland) Act 1972 (questions relating to Crown application) as to the determination of questions shall apply for the purposes of this section.”.

Marginal Citations

- M6** 1994 c. 39.
M7 1972 c. 52.
M8 1972 c. 52.

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