



Flood Risk Management (Scotland) Act 2009

2009 asp 6

^{F1}PART 7

RESERVOIRS

PROSPECTIVE

Crown application

90 Reservoirs Act 1975: Crown application

After section 27A of the 1975 Act, insert—

“27B Crown application in Scotland

- (1) This Act binds the Crown.
- (2) No contravention by the Crown of a provision made by or under this Act makes the Crown criminally liable.
- (3) But the Court of Session may, on the application of SEPA, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (4) Despite subsection (2), the provisions made by and under this Act apply to persons in the public service of the Crown as they apply to other persons.
- (5) The power conferred by section 17 is exercisable in relation to Crown land only with the consent of the appropriate authority.
- (6) In subsection (5)—
 - (a) “Crown land” means land, an interest in which—
 - (i) belongs to Her Majesty in right of the Crown or in right of Her private estates,

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Flood Risk Management (Scotland) Act 2009, Cross Heading: Crown application. (See end of Document for details)

- (ii) belongs to an office-holder in the Scottish Administration or to a government department, or
 - (iii) is held in trust for Her Majesty for the purposes of the Scottish Administration or a government department,
- (b) “appropriate authority”, in relation to any land—
- (i) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners,
 - (ii) in the case of any other land belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration or, as the case may be, government department having the management of the land,
 - (iii) in the case of land belonging to Her Majesty in right of Her private estates, means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers,
 - (iv) in the case of land belonging to an office-holder in the Scottish Administration or to a government department or held in trust for Her Majesty for the purposes of the Scottish Administration or a government department, means that office-holder or government department.
- (7) In subsection (6), the references in paragraph (a)(i) and (b)(iii) to Her Majesty's private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).
- (8) It is for the Scottish Ministers to determine any question which arises as to who is the appropriate authority in relation to any land, and their decision is final.”.

Status:

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