



# Flood Risk Management (Scotland) Act 2009

2009 asp 6

## PART 8

### GENERAL

#### 91 Crown application

- (1) This Act binds the Crown.
- (2) The modifications made by schedule 3 bind the Crown to the extent that the enactments modified bind the Crown.
- (3) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable.
- (4) But the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (5) Despite subsection (3), any provision made by or under this Act applies to persons in the public service of the Crown as it applies to other persons.
- (6) The powers conferred by section 79 (whether those specified in that section or the ancillary powers mentioned in section 81(1) and (2)) are exercisable in relation to Crown land only with the consent of the appropriate authority.
- (7) In subsection (6)—
  - (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,
    - (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—

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*Status: This is the original version (as it was originally enacted).*

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- (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.
- (8) In subsection (7), 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).
- (9) 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.