



# Enterprise and New Towns (Scotland) Act 1990

## 1990 CHAPTER 35

### PART I

#### SCOTTISH ENTERPRISE AND HIGHLANDS AND ISLANDS ENTERPRISE

#### *Powers*

#### **8 General and specific powers**

(1) Subject to section 2(1) of this Act, Scottish Enterprise and Highlands and Islands Enterprise may do anything, whether in Scotland or elsewhere, which is calculated to facilitate or is incidental or conducive to the discharge of their respective general functions; and subject to section 13 of this Act things done by either body under the foregoing provisions of this subsection may (without prejudice to the generality of those provisions) include—

(a) in addition to any power exercisable by virtue of section 2(4)(c) of this Act, making—

(i) grants; or

(ii) loans,

on such conditions as the granter or lender thinks fit;

(b) acquiring, holding and disposing of securities;

(c) guaranteeing obligations (arising out of loans or otherwise) incurred by any other person;

(d) in addition to any power exercisable under or by virtue of section 2(3) or 4(1) (e) of this Act providing, or assisting in the provision of, advisory or other services or facilities for any other person;

(e) acquiring land by agreement;

(f) acquiring land (including servitudes or other rights in or over land by the creation of new rights) compulsorily, except that in so far as acquisition is for

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or in connection with the carrying on of industrial undertakings in any area it shall only be of land whose acquisition appears to the body in question to be necessary to secure an adequate supply of land for such undertakings in the area;

- (g) in addition to any power exercisable under subsection (1)(f) of section 4 of this Act, holding land acquired by it and disposing of or otherwise dealing with such land, so however that, except with the consent of the Secretary of State (whether or not given by virtue of subsection (5) of that section) and subject to section 7(b) of this Act, neither body shall dispose of land, or grant a lease of land, for a consideration less than the best that reasonably can be obtained;
  - (h) acquiring and disposing of plant, machinery, equipment and other property;
  - (i) in addition to any power exercisable under the said subsection (1)(f), managing, developing, or carrying out works on, land, or assisting in such management or development or in the carrying out of such works, and maintaining or assisting in the maintenance of such works;
  - (j) making land, plant, machinery, equipment and other property available for use by other persons;
  - (k) acting directly or through an agent (who, without prejudice to the generality of this paragraph, may be the Secretary of State), or itself acting as agent for another person;
  - (l) forming, promoting, or joining with any other person in forming or promoting, companies (within the meaning of the Companies Act 1985);
  - (m) forming and registering societies, or joining with any other person in forming and registering societies, under the Industrial and Provident Societies Act 1965;
  - (n) forming partnerships with other persons;
  - (o) carrying out, or commissioning the carrying out of, such enquiries, investigations or researches as it may deem necessary or expedient and disseminating, or assisting in the dissemination of, information derived from those enquiries, investigations or researches;
  - (p) promoting, or assisting in the promotion of, publicity;
  - (q) charging for any of its services;
  - (r) accepting any gift or grant made to it for the purposes of any of the body's functions and, subject to the terms of the gift or grant, and to the provisions of this Act, applying the gift or grant for those purposes;
  - (s) turning its resources to account so far as they are not required for the exercise of any of its general functions and powers; and
  - (t) reclaiming land from the sea.
- (2) Without prejudice to the generality of the preceding provisions of this Act, Highlands and Islands Enterprise may engage in any activity which it deems expedient for the introduction, operation or development, by it or by other persons, or by it and by other persons, of industrial and other enterprises in the Highlands and Islands.
- (3) In addition to its power under subsection (1)(p) above, Highlands and Islands Enterprise may promote, or assist in the promotion of, any publicity relating to the Highlands and Islands.
- (4) Subject to section 13(3) of this Act, in addition to its power under subsection (1) (b) above, Highlands and Islands Enterprise may acquire and hold securities for the

purpose of assisting in the provision of finance to persons carrying on or intending to carry on industrial undertakings.

- (5) Without prejudice to subsection (2) above, Highlands and Islands Enterprise may for the purposes of its general functions carry on, or establish and carry on, (whether by itself or jointly with another person) a business or industrial undertaking which in the opinion of the body contributes or will contribute to the economic and social development, or the improvement of the environment, of the Highlands and Islands.
- (6) Without prejudice to subsection (1)(f) above and to section 9 of this Act, the powers and duties conferred on Scottish Enterprise and Highlands and Islands Enterprise by this Act shall, subject to section 32(3) of this Act, be exercisable, in relation to land not belonging to them, on such terms and conditions as may be arranged by agreement with all persons having an interest in the land.
- (7) Any power conferred by subsection (1) above to transfer securities or other property includes, without prejudice to the generality of that subsection, the power to transfer the securities or property (or where the securities or property are held by a subsidiary of the body in question to procure transfer) to the Secretary of State or a nominee of his.
- (8) Where Highlands and Islands Enterprise makes a loan under subsection (1)(a) above to a crofter for the purpose of assisting him—
  - (a) in the erection of any building or other structure, or the execution of any works, on his croft; or
  - (b) in carrying on any business or undertaking on or in connection with his croft, the body may give notice of the loan to the landlord of the croft and to the Secretary of State.
- (9) If notice is given under subsection (8) above then—
  - (a) in relation to the loan sections 11(7)(a) and 23(3) of the Crofters (Scotland) Act 1955 (which provide respectively for payment to the Secretary of State of the value of improvements on the croft of a deceased crofter up to the amount of his liability to the Secretary of State and for the transfer to the Secretary of State of rights to compensation for improvements) shall apply as if for the references to the Secretary of State there were substituted references to Highlands and Islands Enterprise, so however that—
    - (i) any rights which Highlands and Islands Enterprise thereby acquires shall be postponed to any rights, whenever constituted, of the Secretary of State under those provisions; and
    - (ii) the landlord shall be entitled to set off all rent due, or to become due, by the crofter against any sum found to be due to Highlands and Islands Enterprise by virtue of this paragraph;
  - (b) any amount due to the executor of the crofter under section 11(7A) of the said Act of 1955 (which provides in certain circumstances for payment by the Secretary of State to the executor of the difference between the value of improvements computed on one basis and that value computed on another) or to the crofter under section 6(3) of the Crofters (Scotland) Act 1961 (which provides for payments to certain crofters by the Secretary of State of sums additional to compensation in respect of improvements) shall, up to the amount of any liability outstanding on the loan after giving effect to paragraph (a) above, be payable not to the executor but to Highlands and Islands Enterprise.
- (10) In subsections (8) and (9) above—

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- (a) “croft”, “crofter” and “landlord” have the meanings respectively assigned to them by the said Act of 1955; and
  - (b) any reference to a crofter includes a reference to a statutory successor within the meaning of that Act.
- (11) For the purposes of subsection (1)(e) above—
- (a) the Lands Clauses Acts (except so much of them as relates to the acquisition of land otherwise than by agreement, the provisions relating to access to the special Act and sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845); and
  - (b) sections 6 and 70 to 78 of the Railway Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the Mines (Working Facilities and Support) Act 1923),
- shall be incorporated with this section; and, in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and Scottish Enterprise, or as the case may be Highlands and Islands Enterprise, to be the promoter of the undertaking or company.
- (12) For the purposes of subsection (1)(f) above, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply as if Scottish Enterprise, or as the case may be Highlands and Islands Enterprise, were a local authority and as if this section were contained in an Act in force immediately before the commencement of that Act.
- (13) For the purposes of section 278 of the Town and Country Planning (Scotland) Act 1972 (general vesting declarations) Scottish Enterprise and Highlands and Islands Enterprise shall be deemed to be public authorities to which that section applies.

## **9 Powers of entry**

- (1) Subject to subsection (2) below, any person duly authorised in writing—
- (a) by Scottish Enterprise or by Highlands and Islands Enterprise (the body in question being in this paragraph referred to as the “authorising body”) may, at any reasonable time, enter upon land in order to survey it—
    - (i) where the authorising body has under consideration the lease or purchase of the land;
    - (ii) for the purpose of the erection of buildings or other structures, or the carrying out of works or other operations, on the land or the provision of equipment and services on or in connection with the land; or
    - (iii) for the purpose of determining whether, and if so in what manner, any of the functions of the authorising body (other than functions referred to in section 2(3), 4(1)(a) or (b) or as the case may be 5(1)(b) of this Act) should be exercised in relation to the land;
  - (b) by Highlands and Islands Enterprise may, at any reasonable time, enter upon land in order to survey it—
    - (i) in connection with any proposals for submission by Highlands and Islands Enterprise to the Secretary of State under the said section 5(1)(b) or with such proposals so submitted; or
    - (ii) for any purpose not mentioned in paragraph (a) or (b)(i) above but connected with the exercise of Highlands and Islands Enterprise’s functions under this Act (other than functions referred to in section 2(3) thereof).

- (2) A person authorised under this section to enter upon any land shall, if so required by the occupier or anyone acting on the occupier's 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 of the intended entry has been given to the occupier.
- (3) Where any land is damaged in the exercise of a power of entry conferred under this section or in the making of any survey for the purpose of which any such power of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from Scottish Enterprise or as the case may be from Highlands and Islands Enterprise; and the amount of such compensation shall, in the case of any dispute, be determined by the Lands Tribunal for Scotland.
- (4) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein if notice of the intention to do so has been included in the notice required by subsection (2) of this section; but if the land is held by statutory undertakers who object to the proposed works on the ground that carrying them out would be seriously detrimental to the carrying on of the statutory undertaking, the works shall not be carried out except with the authority of the appropriate Minister.
- (5) In subsection (4) above, "appropriate Minister" and "statutory undertakers" have the same meanings as they have respectively in sections 213 and 275 of the Town and Country Planning (Scotland) Act 1972; but this subsection is subject to paragraph 93(1) of Schedule 4 to the Post Office Act 1969, paragraph 4 of Schedule 2 to the Civil Aviation Act 1982, paragraph 2(1) and (9) of Schedule 7 to the Gas Act 1986 and paragraphs 1(1) and 3(2) of Schedule 16 to the Electricity Act 1989 (extensions of meaning).
- (6) A person entering upon any land by virtue of this section may take with him such other persons as may be necessary, and on leaving any premises which he has so entered and which are either unoccupied premises or premises the occupier of which is temporarily absent, shall leave them as effectively secured against unauthorised entry as he found them.
- (7) 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.
- (8) A person who, having in accordance with this section been admitted to a factory, workshop or workplace, discloses to any other person information thereby obtained as to any manufacturing process or trade secret shall, unless the disclosure was made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (9) Nothing in this section shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code or apply to any telecommunication apparatus kept installed for the purposes of any such system.

## **10 Power of Scottish Enterprise to obtain information**

- (1) Scottish Enterprise may, for the purpose of enabling it to make an order or serve any notice or other document which, by, under or by virtue of any of the provisions of this Act it is authorised or required to make or serve, require the occupier of any premises, and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest in the premises and the name and address of any other person known to him to have an interest in the premises, whether as superior, owner, heritable creditor, lessee or otherwise.
- (2) Any person who, having been required in pursuance of this section to give any information—
  - (a) refuses, or fails within ten days of being so required, to give that information shall, unless he can show reasonable cause for the refusal or failure, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; or
  - (b) knowingly or recklessly makes any misstatement in response to the requirement shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (3) Where an offence under this section committed by a body corporate or a Scottish firm is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, partner, manager, secretary or other similar officer of the body corporate or firm or a person who was purporting to act in any such capacity, he as well as the body corporate or, as the case may be, the firm shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (4) Where the affairs of a body corporate are managed by its members, subsection (3) 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.

## **11 Power of Highlands and Islands Enterprise to obtain information**

- (1) Highlands and Islands Enterprise may by notice served on the owner or occupier of any land in the Highlands and Islands, or on any person carrying on a business or undertaking in the Highlands and Islands, require him to furnish it with such information specified in the notice as it reasonably may require for the execution in relation to the land, business or undertaking, of any of its functions under this Act other than the general function mentioned in section 1(b)(ii) thereof.
- (2) A person on whom a notice has been served under subsection (1) above may, within one month after such service, appeal to the sheriff on the ground that the information specified in the notice, or some part of that information, is not reasonably required by Highlands and Islands Enterprise in terms of that subsection; and the sheriff may make such order confirming, quashing or varying the notice as he thinks fit.
- (3) Without prejudice to the generality of subsection (2) above, the sheriff may, in determining, for the purposes of that subsection, whether information is reasonably required, take into account the probable cost or inconvenience to the appellant of furnishing the information.
- (4) Any person who, having been required in pursuance of this section to give any information—

- (a) refuses, or fails timeously, to furnish the information specified in the notice (as varied by the sheriff as the case may be) shall, unless he can show reasonable cause for the refusal or failure, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; or
  - (b) knowingly or recklessly makes any misstatement in response to the requirement shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (5) Subsections (3) and (4) of section 10 of this Act shall apply in relation to an offence under this section as they apply in relation to an offence under that section.
- (6) The reference in subsection (4)(a) above to a person failing timeously to furnish information specified in a notice is a reference to his failing to furnish it within three months after service of the notice or, in a case where there has been an appeal under subsection (2) above as respects the notice, within three months after a decision on that appeal confirming or varying the notice, or of the abandonment of the appeal.
- (7) Subject to subsection (9) below, information which has been obtained by virtue of this section with respect to any land, business or undertaking shall not without the consent of the owner and occupier of that land or, as the case may be, of the person carrying on that business or undertaking, be disclosed other than for the purposes of the execution of functions which is mentioned in subsection (1) above or in compliance with a direction under section 14(2) of this Act.
- (8) A person who discloses information to any other person in contravention of subsection (7) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.
- (9) Nothing in subsection (7) above applies to a disclosure of information made for the purposes of any legal proceedings pursuant to this Part of this Act (or, if they are criminal proceedings, whether pursuant to this Part of this Act or not) or for the purposes of a report of any legal proceedings.

## **12 Further provision as regards obtaining information etc**

- (1) Scottish Enterprise and Highlands and Islands Enterprise shall each be a competent authority for the purposes of the Statistics of Trade Act 1947, and the reference in section 1(1) of that Act (power of competent authorities to obtain information) to the discharge by government departments of their functions shall include a reference to the discharge by each of the bodies of its functions.
- (2) Nothing in section 9 of the said Act of 1947 (restrictions on disclosure of information) shall prevent or penalise—
- (a) the disclosure by the Secretary of State of relevant information to Scottish Enterprise or Highlands and Islands Enterprise;
  - (b) the disclosure by Scottish Enterprise or Highlands and Islands Enterprise of relevant information to a government department;
  - (c) the disclosure by Scottish Enterprise and Highlands and Islands Enterprise to each other, or by either to a board, of relevant information which is of a kind specified in a notice in writing given to the body making the disclosure and to the recipient of the information by the Secretary of State in pursuance of this paragraph;

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- (d) the disclosure by Scottish Enterprise or Highlands and Islands Enterprise of relevant information, consisting of the name and address of any establishment, the numbers of persons of different descriptions employed there and the nature of the activities carried on there, to—
- (i) a person who is, or is to be, engaged in carrying out on behalf of either body (or both bodies) any research or survey related to matters connected with training for or relevant to employment; or
  - (ii) an officer of a planning authority (within the meaning of the Town and Country Planning (Scotland) Act 1972) or of a development corporation (within the meaning of the New Towns (Scotland) Act 1968), being an officer who is authorised by the authority or as the case may be by the corporation to receive the information; or
- (e) the disclosure by Scottish Enterprise or Highlands and Islands Enterprise to a person to whom notice in writing is given by the Secretary of State in pursuance of this paragraph of statistics compiled wholly or partly from relevant information about the number of persons employed in any activity or area provided that the giving of the notice is intimated by the Secretary of State to the body in question before the disclosure.
- (3) In subsection (2) above—
- “a board” means an industrial training board established under section 1 of the Industrial Training Act 1964 or under section 1 of the Industrial Training Act 1982; and
- “relevant information” means information obtained under the Statistics of Trade Act 1947,
- and any reference in that subsection to—
- (i) the Secretary of State, a government department, Scottish Enterprise, Highlands and Islands Enterprise or such a board includes an officer of his, or as the case may be of that body;
  - (ii) such a board includes a committee appointed by the board, any officer of such a committee and any person entitled to take part in proceedings of the board.
- (4) Notice in pursuance of paragraph (c) or (e) of subsection (2) above shall include specification of the purpose for which the information disclosed may be used.
- (5) A person to whom information is disclosed by virtue of subsection (2) above shall not use the information for a purpose other than—
- (a) in a case falling within paragraph (a) of the subsection, a purpose of the body to which the disclosure is made;
  - (b) in a case falling within paragraph (b) of the subsection, a purpose of the government department in question;
  - (c) in a case falling within paragraph (c) or (e) of the subsection, the purpose specified under subsection (4) above in the notice given to the person in pursuance of the paragraph in question;
  - (d) in a case falling within paragraph (d)(i) of the subsection, a purpose related to the carrying out of the research or survey in question;
  - (e) in the case of information given by virtue of paragraph (d)(ii) of the subsection to an officer of a planning authority, the purposes of the functions conferred on the authority by Part II of the Town and Country Planning (Scotland) Act 1972; and



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- (f) in the case of information given by virtue of the said paragraph (d)(ii) to an officer of a development corporation, the purposes of the functions conferred on the corporation by section 3 of the New Towns (Scotland) Act 1968 (objects and general powers of corporation).
- (6) A person who contravenes subsection (5) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) Without prejudice to section 30(5) of this Act, Scottish Enterprise and Highlands and Islands Enterprise shall each furnish the Secretary of State with such information in its possession as he may require in connection with the determination of questions relating to contributions or benefit under—
  - (a) the benefit Acts (as defined in section 84(1) of the Social Security Act 1986); or
  - (b) the Social Security Act 1988,and any information falling to be furnished in pursuance of this subsection shall be furnished in such form and at such times as the Secretary of State may direct.

### **13 Restrictions on exercise of certain powers**

- (1) Except with the approval of the Secretary of State, the powers mentioned in subsection (1)(a)(ii), (b), (c), (l) (in relation to forming or promoting companies but not in relation to joining with any other person in forming or promoting companies) and (n) of section 8 of this Act shall be exercised by Scottish Enterprise in connection only with such of its functions as are mentioned in section 4 (1)(a) or (b) of this Act.
- (2) The powers mentioned in subsections (1)(a)(i) and (e) to (g) and (4) of the said section 8 shall be exercised only in accordance with arrangements made with the Secretary of State.
- (3) The powers mentioned in subsections (1)(a), (b), (d), (l) and (m) and (4) of the said section 8 shall be exercised by Highlands and Islands Enterprise as regards only persons carrying on, or proposing to carry on, whether or not wholly within the Highlands and Islands, a business or undertaking which in the opinion of the body contributes or will contribute to the economic and social development, or the improvement of the environment, of the Highlands and Islands.
- (4) Neither Scottish Enterprise nor any of its subsidiaries shall acquire any of the share capital of a body corporate except with the consent of the Secretary of State or in accordance with any general authority given by the Secretary of State—
  - (a) if the acquisition would entitle Scottish Enterprise to exercise, or control the exercise of, 30% or more of the votes at any general meeting of the body corporate; or
  - (b) if the value of the consideration for the acquisition, together with the value of any consideration paid for share capital of the body corporate already held by Scottish Enterprise or any of its subsidiaries would exceed £1,000,000.
- (5) Subsection (4)(a) above shall not restrict the acquisition of share capital which gives a right to vote exercisable only in restricted circumstances; and where Scottish Enterprise holds such share capital the fact that it does so shall be disregarded for the purpose of determining whether subsection (4)(a) above prevents acquisition of further share capital of the same body corporate.

#### **14 Power of Secretary of State to give directions**

- (1) The Secretary of State may after consulting with—
  - (a) Scottish Enterprise, give Scottish Enterprise;
  - (b) Highlands and Islands Enterprise, give Highlands and Islands Enterprise,directions of a general or specific character as to the exercise of its functions; and it shall be the duty of the body in question to give effect to any such directions.
- (2) Without prejudice to sections 12(7) and 30(5) of this Act, the Secretary of State may give directions to Scottish Enterprise or to Highlands and Islands Enterprise requiring the body in question to furnish to a government department, in a form specified in the directions, any information so specified which has been obtained by that body by virtue of section 12(1) of this Act or otherwise.

#### **15 Industrial injuries benefit**

- (1) Where it appears to—
  - (a) Scottish Enterprise; or
  - (b) Highlands and Islands Enterprise,that a person would have been entitled, by reference to an injury or disease developed by him or by another person in consequence of attendance at a course provided or approved by it or in consequence of the use of facilities so provided or approved, to receive any benefit or increase in benefit in pursuance of Part II of the Social Security Act 1975 but for the fact that he or the other person was not at a relevant time an employed earner, it may make to him payments equal to the whole or part of the benefit or increase in question.
- (2) With the approval of the Secretary of State—
  - (a) Scottish Enterprise; or
  - (b) Highlands and Islands Enterprise,may make to a person payments by way of travelling and subsistence allowances and compensation for loss of remunerative time which it considers are appropriate in connection with the person's attendance at any examination connected with a claim for payments from it under subsection (1) above.

#### **16 Courses of training etc.: duty to give preference to certain categories of disabled person**

- (1) It shall be the duty of—
  - (a) Scottish Enterprise; and
  - (b) Highlands and Islands Enterprise,in exercising any power which the body in question has to select disabled persons for courses of training, to give preference, so far as the body in question considers it consistent with the efficient exercise of the power, to persons of the classes specified in section 16 of the Disabled Persons (Employment) Act 1944 (classes of ex-service men and women to whom preference is to be given in terms of that section).
- (2) In subsection (1) above, "disabled person" has the same meaning as in the said Act of 1944.

**17 Encouragement of women, members of minority racial groups and disabled persons to take advantage of opportunities for certain work etc**

Without prejudice to paragraph (a) of section 2(4) of this Act or to any enactment prohibiting discrimination (within the meaning of the Sex Discrimination Act 1975 or the Race Relations Act 1976), Scottish Enterprise and Highlands and Islands Enterprise shall each, in exercising its functions, promote—

- (a) such actings by any employer as are lawful by virtue of section 48(1) of the said Act of 1975 (facilities for women only or for men only to train for, and encouragement for them to take up, work not ordinarily done for the employer by persons of the sex in question etc.) or 38(1) of the said Act of 1976 (corresponding facilities and encouragement in relation to members of particular racial groups); and
- (b) actings by any employer—
  - (i) to afford access to facilities for training for disabled persons which would help to fit them for particular work in his employment; or
  - (ii) to encourage disabled persons to take advantage of opportunities for doing such work.

**18 Prohibition on discrimination in provision of certain facilities or services**

In sections 16 of the Sex Discrimination Act 1975 and 15 of the Race Relations Act 1976 (prohibitions on discrimination in provision of facilities or services under section 2 of the Employment and Training Act 1973), there shall in each case after subsection (1) be inserted the following subsection—

“(1A) It is unlawful for Scottish Enterprise or Highlands and Islands Enterprise to discriminate in the provision of facilities or services under such arrangements as are mentioned in section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (arrangements analogous to arrangements in pursuance of section 2 of the said Act of 1973).”.