



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 [^{F1}under the Companies Act 2006];
 - (m) forming and registering societies, or joining with any other person in forming and registering societies, under [^{F2}the Co-operative and Community Benefit Societies Act 2014];
 - (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

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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 [F³section 32] 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 [F⁴Scottish Ministers or a nominee of theirs].
- (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 ^{M1}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 ^{M2}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.

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- (10) In subsections (8) and (9) above—
- (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 ^{M3}Lands Clauses Consolidation (Scotland) Act 1845); and
 - (b) sections 6 and 70 to 78 of the ^{M4}Railway Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the ^{M5}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 ^{M6}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 ^{M7}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.

Textual Amendments

- F1** Words in s. 8(1)(l) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 117(3)** (with art. 10)
- F2** Words in s. 8(1)(m) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, **Sch. 4 para. 45** (with Sch. 5)
- F3** Words in s. 8(6) substituted (4.4.2003) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), **ss. 113(2), 129(3)** (with **ss. 119, 121**)
- F4** Words in s. 8(7) substituted (1.7.1999) by [S.I. 1999/1820](#), **arts. 1(2), 100(4)**

Marginal Citations

- M1** 1955 c. 21.
M2 1961 c. 58.
M3 1845 c. 19.
M4 1845 c. 33.
M5 1923 c. 20.
M6 1947 c. 42.
M7 1972 c. 52.

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