

SCHEDULES

SCHEDULE 21

Section 116.

APPLICATION OF CERTAIN ENACTMENTS TO THE CROWN

PART I

ENACTMENTS RELATING TO ENGLAND AND WALES

The Water Industry Act 1991

- 1 (1) For section 221 of the Water Industry Act 1991 (Crown application) there shall be substituted—

“221 Crown application.

- (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 High Court may, on the application of the Environment Agency, a water undertaker or a sewerage undertaker, 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; and this subsection shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (interpretation of references to Her Majesty in her private capacity) were contained in this Act.
- (6) Subject to subsections (4) and (5) above, the powers conferred by sections 155, 159, 161(2) and 167 above shall be exercisable in relation to land in which there is a Crown or Duchy interest only with the consent of the appropriate authority.
- (7) In this section—

“the appropriate authority” has the same meaning as it has in Part XIII of the Town and Country Planning Act 1990 by virtue of section 293(2) of that Act;

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“Crown or Duchy interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, 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 (3) of section 293 of the Town and Country Planning Act 1990 (questions relating to Crown application) as to the determination of questions shall apply for the purposes of this section.”

The Water Resources Act 1991

- 2 (1) The Water Resources Act 1991 shall be amended in accordance with the following provisions of this paragraph.
- (2) In section 115 (fisheries orders) in subsection (7) (orders affecting Crown or Duchy property) in paragraph (a), after the words “an order under this section” there shall be inserted the words “making provision, by virtue of subsection (1)(b) above, for the modification of section 156 below in relation to fisheries in an area”.
- (3) In section 142 (orders providing for the imposition and collection of fisheries contributions), in subsection (2) (which applies, in relation to orders under that section, the provisions of subsections (2) to (9) of section 115 of that Act) for the words “(2) to (9)” there shall be substituted the words “(2) to (6)”.
- (4) For section 222 (Crown application) there shall be substituted—

“222 Crown application.

- (1) Subject to the provisions of this section, this Act binds 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 High Court may, on the application of the Agency, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Notwithstanding anything in subsection (2) above, the provisions of this Act shall apply to persons in the public service of the Crown as they apply 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) Subject to subsection (4) above, the powers conferred by sections 154, 156, 160, 162(3) and 168 above shall be exercisable in relation to land in which there is a Crown or Duchy interest only with the consent of the appropriate authority.
- (6) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3)

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of the Crown Proceedings Act 1947 (interpretation of references to Her Majesty in her private capacity) were contained in this Act.

- (7) Nothing in this Act, as read with the other provisions of this section, shall be construed as conferring any power of levying drainage charges in respect of lands below the high-water mark of ordinary spring tides.
- (8) Section 74 of the Land Drainage Act 1991 (Crown application), so far as it relates to land in which there is a Crown or Duchy interest, shall apply in relation to the flood defence provisions of this Act as it applies in relation to that Act; but nothing in this subsection shall affect any power conferred by this Act for the purposes both of the Agency's functions under those provisions and of other functions of the Agency.
- (9) In this section—
“the appropriate authority” has the same meaning as it has in Part XIII of the Town and Country Planning Act 1990 by virtue of section 293(2) of that Act;
“Crown or Duchy interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, 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.
- (10) The provisions of subsection (3) of section 293 of the Town and Country Planning Act 1990 (questions relating to Crown application) as to the determination of questions shall apply for the purposes of this section.”

PART II

ENACTMENTS RELATING TO SCOTLAND

The Sewerage (Scotland) Act 1968

- 3 For section 55 of the 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

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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.”.

The Control of Pollution Act 1974

4 For subsection (3) of section 105 of the 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.”

The Water (Scotland) Act 1980

5 After section 110 of the 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 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 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.”.

The Local Government etc. (Scotland) Act 1994

- 6 After section 125 of the 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.
- (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.

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- (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 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 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.”.