



# Planning and Compulsory Purchase Act 2004

## 2004 CHAPTER 5

### PART 7

#### CROWN APPLICATION OF PLANNING ACTS

#### CHAPTER 2

#### SCOTLAND

#### *Enforcement*

#### 94 Enforcement in relation to Crown land: Scotland

- (1) In the Town and Country Planning (Scotland) Act 1997 (c. 8), section 245 (exercise of powers in relation to Crown land) is omitted.
- (2) After section 245 there is inserted the following section—

#### **“245A Enforcement in relation to the Crown**

- (1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act; but the Court of Session may, on the application of a public authority or office-holder responsible for the enforcement of anything required to be done, or prohibited, by or under this Act, declare unlawful any act or omission so done or suffered.
- (2) A planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.
- (3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.
  - (5) A step taken for the purposes of enforcement includes—
    - (a) entering land,
    - (b) initiating proceedings,
    - (c) the making of an application.
  - (6) A step taken for the purposes of enforcement does not include—
    - (a) service of a notice,
    - (b) the making of an order (other than a court order).”
- (3) In the Town and Country Planning (Scotland) Act 1997 (c. 8), after section 245A (inserted by subsection (2) above) there is inserted the following section—

**“245B References to an interest in land**

- (1) Subsection (2) applies to the extent that an interest in land is a Crown interest.
  - (2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.
  - (3) An interest in land includes an interest only as occupier of the land.”
- (4) In the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) after section 73C (inserted by Schedule 5) there are inserted the following sections—

**“73D Enforcement in relation to the Crown**

- (1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act; but the Court of Session may on the application of a public authority or office-holder responsible for the enforcement of anything required to be done, or prohibited, by or under this Act, declare unlawful any act or omission so done or suffered.
- (2) A planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.
- (3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.
- (4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.
- (5) A step taken for the purposes of enforcement includes—
  - (a) entering land,
  - (b) initiating proceedings,
  - (c) the making of an application.
- (6) A step taken for the purposes of enforcement does not include—
  - (a) service of a notice,

- (b) the making of an order (other than a court order).

### **73E Reference to an interest in land**

- (1) Subsection (2) applies to the extent that an interest in land is a Crown interest.
  - (2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.
  - (3) An interest in land includes an interest only as occupier of the land.”
- (5) In the Planning (Hazardous Substances) (Scotland) Act 1997, after section 30A (inserted by section 90(3)) there are inserted the following sections—

### **“30B Enforcement in relation to the Crown**

- (1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act; but the Court of Session may, on the application of a public authority or office-holder responsible for the enforcement of anything required to be done, or prohibited, by or under this Act, declare unlawful any act or omission so done or suffered.
- (2) A planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.
- (3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.
- (4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.
- (5) A step taken for the purposes of enforcement includes—
  - (a) entering land,
  - (b) initiating proceedings,
  - (c) the making of an application.
- (6) A step taken for the purposes of enforcement does not include—
  - (a) service of a notice,
  - (b) the making of an order (other than a court order).

### **30C Reference to an interest in land**

- (1) Subsection (2) applies to the extent that an interest in land is a Crown interest.
- (2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.
- (3) An interest in land includes an interest only as occupier of the land.”