



Enterprise and New Towns (Scotland) Act 1990

1990 CHAPTER 35

PART I

SCOTTISH ENTERPRISE AND HIGHLANDS AND ISLANDS ENTERPRISE

Establishment and Functions

1 Scottish Enterprise and Highlands and Islands Enterprise.

There shall be established—

- (a) a body to be known as Scottish Enterprise, which shall have the general functions of—
 - (i) furthering the development of Scotland's economy and in that connection providing, maintaining and safeguarding employment;
 - (ii) subject to section 2(1) of this Act [^{F1}maintaining and] enhancing skills and capacities relevant to employment in Scotland and assisting persons to establish themselves as self-employed persons there;
 - (iii) promoting Scotland's industrial efficiency and international competitiveness; and
 - (iv) furthering improvement of the environment of Scotland; and
- (b) a body to be known as Highlands and Islands Enterprise, which shall have the general functions of—
 - (i) preparing, concerting, promoting, assisting and undertaking measures for the economic and social development of the Highlands and Islands;
 - (ii) subject to section 2(1) of this Act [^{F1}maintaining and] enhancing skills and capacities relevant to employment in the Highlands and Islands and assisting persons to establish themselves as self-employed persons there; and

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(iii) furthering improvement of the environment of the Highlands and Islands;

and Schedule 1 to this Act shall have effect with respect to the constitution and proceedings of, and other matters relating to, those bodies.

Textual Amendments

F1 Words in s. 1(a)(ii)(b)(ii) inserted (30.8.1993) by 1993 c. 19, s. 47(3); S.I. 1993/1908, art. 2(1), Sch.1.

2 Functions in relation to training for employment etc.

- (1) Without prejudice to section 17 of this Act, exercise of the general functions mentioned in section 1(a)(ii) and (b)(ii) of this Act shall only be in accordance with arrangements made under subsection (3) below.
- (2) Scottish Enterprise and Highlands and Islands Enterprise shall each—
 - (a) from time to time submit to the Secretary of State particulars of what it proposes to do for the purpose of carrying out such of its general functions as are mentioned in subsection (1) above;
 - (b) ensure that all its activities in relation to those functions are in accordance with such proposals submitted by it to the Secretary of State as have been approved by him and with such modifications (if any) of those proposals as are notified to the body in question by him.
- (3) Scottish Enterprise and Highlands and Islands Enterprise shall each, to such extent as it considers appropriate, make arrangements for the purpose of—
 - (a) assisting persons to train so that they may obtain and retain employment suitable for their ages and capacities;
 - (b) improving and developing any such training; ^{F2} . . .
 - (c) assisting persons to establish themselves as self-employed persons [^{F3}; and
 - (d) providing temporary employment for persons who are without employment.]
- (4) Arrangements under subsection (3) above may—
 - (a) include arrangements for encouraging increases in the opportunities for (and types of) [^{F4}employment and training] that are available to women and girls, to disabled persons or to persons of any racial group (as defined in [^{F5}section 9 of the Equality Act 2010]) which constitutes a minority within the population of Scotland;
 - (b) be made in respect of training anywhere in the United Kingdom or elsewhere;
 - (c) include provision for the making of payments by Scottish Enterprise or Highlands and Islands Enterprise, by way of grant or loan or otherwise, to persons who provide facilities in pursuance of the arrangements, to persons who use those facilities and to other persons specified in or determined under the arrangements; and
 - (d) include provision for the making of payments to Scottish Enterprise or Highlands and Islands Enterprise by other parties to the arrangements and by persons who use those facilities.
- (5) The payments for which, by virtue of subsection (4)(c) or (d) above, arrangements under subsection (3) above may provide—

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- (a) shall include the payment to a person by Scottish Enterprise or Highlands and Islands Enterprise of an allowance pending a time when payments will be or may be made to that person in respect of his use of facilities which will be or may be made available to him under any such arrangements; and
 - (b) shall not include the payment of any such allowance to a person—
 - (i) for any period after that person has attained the age of eighteen years; or
 - (ii) for any period for which child benefit is payable in respect of that person.
- (6) Other than under section 15 of this Act, no payments shall be made by or on behalf of Scottish Enterprise or Highlands and Islands Enterprise by virtue of any power conferred by subsection (4) above unless the Secretary of State ^{F6} . . . has approved—
- (a) the amounts of the payments or the manner of determining those amounts; and
 - (b) the terms on which they are made or the manner of determining those terms.
- (7) An education authority shall provide Scottish Enterprise or Highlands and Islands Enterprise with such information in the possession of the authority as the body in question may, by written notice to the authority, reasonably require in connection with the determination of questions relating to the exercise by the body of any power which it has by virtue of subsection (4)(c) above to make payments to any person.

Textual Amendments

- F2** Word in s. 2(3) repealed (30.8.1993) by 1993 c. 19, s. 51, **Sch. 10**; S.I. 1993/1908, art. 2(1), **Sch. 1**.
- F3** S. 2(3): word and s. 2(3)(d) inserted (30.8.1993) by 1993 c. 19, s. 47(4)(a); S.I. 1993/1908, art. 2(1), **Sch. 1**.
- F4** Words in s. 2(4) substituted (30.8.1993) by 1993 c. 19, s. 47(4)(b); S.I. 1993/1908, art. 2(1), **Sch. 1**.
- F5** Words in s. 2(4)(a) substituted by 2010 c. 15 Sch. 26 Pt. 1 para. 20 (as inserted) (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), **Sch. 1 para. 5** (see S.I. 2010/2317, art. 2)
- F6** Words in s. 2(6) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 100(2)**, Pt.IV

Modifications etc. (not altering text)

- C1** S. 2(4)(c) excluded (7.10.1996) by S.I. 1996/207, reg. 103(2), **Sch. 7 para. 14**.

3 Monitoring of training for employment

Where the functions of Scottish Enterprise, or of Highlands and Islands Enterprise, mentioned in section 2(3)(a) or (b) of this Act are carried out through an agent or are delegated to any person, the body in question shall have the duty (which shall not itself be delegated) of keeping under continuous review the suitability and adequacy of any training provided by that agent, or as the case may be by that person (or his agent), in discharging those functions.

4 Further provision as regards functions of Scottish Enterprise.

- (1) For the purposes of its general functions mentioned in section 1(a)(i), (iii) and (iv) of this Act, Scottish Enterprise shall (without prejudice to the generality of that section) to such extent as it considers appropriate—

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- (a) provide or assist in the provision of finance to persons carrying on or intending to carry on industrial undertakings;
- (b) carry on, or establish and carry on, whether by itself or jointly with any other person, industrial undertakings;
- (c) assist the establishment or growth of community enterprises or co-operative enterprises;
- (d) otherwise promote or assist the establishment, growth, modernisation or development of industry or any undertaking in an industry;
- (e) in accordance with arrangements to be approved by the Secretary of State, provide or adapt sites and provide, adapt, modernise or reconstruct premises for industrial undertakings, or assist any other person to do any of those things, and provide or assist in the provision of related facilities;
- (f) in such accordance, manage or assist in the management of sites and premises for industrial undertakings;
- (g) undertake or assist the undertaking of the development, re-development and improvement of the environment;
- (h) bring derelict land into use or improve its appearance, or assist its being so brought or improved; and
- (i) promote the private ownership of interests in industrial undertakings by the disposal of securities and other property held by Scottish Enterprise or by any of its subsidiaries,

and shall discharge such other functions as are conferred by, under or by virtue of this Act.

(2) The functions mentioned in subsection (1)(b) above shall only be exercised through a company (^{F7}as defined in section 1(1) of the Companies Act 2006) or through a partnership.

(3) In subsection (1)(c) above—

“community enterprise” means a body corporate which—

- (a) in the opinion of Scottish Enterprise contributes or will contribute to the economic and social development of a particular area of Scotland;
 - (b) by its written constitution admits to membership only—
 - (i) persons resident in, or employed in, that area (or both so resident and so employed); or
 - (ii) persons nominated by such persons as are mentioned in subparagraph (i) above; and
 - (c) by that constitution prohibits distribution of profits amongst its members; and
- “co-operative enterprise” means a body which fulfills the criteria specified in paragraphs (a) and (b) of section 2(2) of the ^{M1}Industrial Common Ownership Act 1976 (whether or not it has been certified by the Secretary of State under that section).

(4) In exercising its functions, Scottish Enterprise shall have regard to the requirements of agriculture and efficient land management and (without prejudice to its general function of furthering improvement of the environment) to the desirability of safeguarding the environment.

(5) Arrangements approved by virtue of paragraph (e) of subsection (1) above may, if it appears to the Secretary of State that there are circumstances which justify the giving of special assistance, include provision that he may authorise Scottish Enterprise to

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provide premises for the occupation of an undertaking free of rent for such period as he considers appropriate.

- (6) Without prejudice to the generality of paragraphs (e) and (f) of subsection (1) above, the Secretary of State may authorise Scottish Enterprise to undertake, or assist in, the provision of means of access or other facilities in or for an area where this appears to him to be expedient for the purpose of contributing to or supporting the development of industry in that area.

Textual Amendments

- F7** Words in s. 4(2) 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(2)** (with art. 10)

Marginal Citations

- M1** 1976 c. 78.

5 Further provision as regards functions of Highlands and Islands Enterprise.

- (1) For the purposes of its general functions mentioned in section 1(b)(i) and (iii) of this Act, Highlands and Islands Enterprise shall (without prejudice to the generality of that section)—
- (a) keep under review all matters relating to the economic and social well-being and development of the Highlands and Islands;
 - (b) after consultation with such local authorities [^{F8}, National Park authorities,] and other bodies as appear to it to have an interest, from time to time prepare and submit to the Secretary of State for his approval proposals (whether general or specific in character) for the economic and social development of the Highlands and Islands or any part thereof;
 - (c) concert, promote, assist or undertake measures to implement any proposals so approved;
 - (d) to such extent as it considers appropriate, undertake or assist the undertaking of the development, re-development and improvement of the environment;
 - (e) to such extent as it considers appropriate, bring derelict land into use or improve its appearance or assist its being so brought or improved; and
 - (f) advise the Secretary of State on such matters relating to its functions as he may refer to it or as it may think fit,
- and shall discharge such other functions as are conferred by, under or by virtue of this Act.
- (2) The Secretary of State may approve, in whole or in part, any proposals submitted to him under subsection (1)(b) above, or may refuse to approve them.
- (3) In exercising its functions, Highlands and Islands Enterprise shall (without prejudice to its general function of furthering improvement of the environment) have regard to the desirability of safeguarding—
- (a) the natural beauty of the countryside in;
 - (b) the flora and fauna of; and
 - (c) the geological and geomorphological features of special interest of, the Highlands and Islands.

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Textual Amendments

F8 Words in s. 5(1)(b) inserted (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 16** (with s. 32); S.S.I. 2000/312, **art. 2**

6 Development and improvement of the environment.

- (1) For the functions mentioned in—
- (a) section 4(1)(g) of this Act, Scottish Enterprise;
 - (b) section 5(1)(d) of this Act, Highlands and Islands Enterprise,
- shall, after consultation with such local authorities [^{F9}, National Park authorities,] statutory and other bodies as appear to it to have an interest, from time to time prepare and submit to the Secretary of State for his approval proposals for the development, redevelopment or improvement of any area within or in relation to which the functions in question are exercisable.
- (2) The Secretary of State may approve, in whole or in part or with modifications, any proposals submitted to him under subsection (1) above or may refuse to approve them; and any such approval—
- (a) may relate to a specific acting of the submitting body, or to all actings of that body which are of a class or description specified in the approval; and
 - (b) may be given subject to such conditions as may be so specified.
- (3) The submitting body may—
- (a) either by itself or in conjunction with any other person, implement or assist in implementing proposals approved under this section;
 - (b) make payments of such amount and in such manner as it may, with the approval of the Secretary of State ^{F10} . . ., determine to any person towards the cost of carrying out works specified in proposals so approved.

Textual Amendments

F9 Words in s. 6(1) inserted (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 16** (with s. 32); S.S.I. 2000/312, **art. 2**

F10 Words in s. 6(3)(b) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 100(3)**, Pt.IV

7 Derelict land.

Where it appears to Scottish Enterprise or to Highlands and Islands Enterprise that land is derelict, neglected or unsightly and that steps should be taken for the purpose of enabling the land (in this Act referred to as “derelict land”) to be brought into use or of improving the appearance of the land the body in question—

- (a) in accordance with arrangements approved by the Secretary of State may acquire, by agreement or compulsorily, the derelict land and any other land (whether or not adjacent to the derelict land) whose acquisition is reasonably required for the purpose mentioned above and may carry out, or assist in carrying out, on the derelict land and the other land such works as appear to the body to be expedient for that purpose; and

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- (b) after carrying out those works may dispose of the land free of charge to a local authority or to a development corporation (within the meaning of the ^{M2}New Towns (Scotland) Act 1968) for the purpose of the land being used as a public open space.

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Marginal Citations

M2 1968 c. 16.

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