

## SCHEDULE 2 FUNCTIONS OF HISTORIC ENVIRONMENT SCOTLAND IN RELATION TO SCHEDULED MONUMENTS

### PART 3

#### SCHEDULED MONUMENT ENFORCEMENT NOTICES

- 19 In section 9C (appeal against scheduled monument enforcement notice)—
- (a) in subsection (1) for “by summary application appeal to the sheriff” substitute “appeal to the Scottish Ministers”,
  - (b) in subsection (2)—
    - (i) before paragraph (a) insert—

“(za) that the monument is not of national importance,”,
    - (ii) after paragraph (c) insert—

“(ca) that scheduled monument consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted,”,
    - (iii) after paragraph (d) insert—

“(da) except in relation to such a requirement as is mentioned in section 9A(3)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the monument or land to its condition before the works were carried out,”,
    - (iv) after paragraph (e) insert—
      - “(f) that the steps required by the notice for the purpose of restoring the character of the monument or land to its former state would not serve that purpose,
      - (g) that the cessation of any works required by the notice exceeds what is necessary to remedy the contravention of section 2(1) or (6),
      - (h) that steps required to be taken by virtue of section 9A(3)(b) exceed what is necessary to alleviate the effect of the works executed to the monument or land,
      - (i) that steps required to be taken by virtue of section 9A(3)(c) exceed what may reasonably be required to bring the monument or land to the state in which it would have been if the scheduled monument consent had been complied with.”,
  - (c) after subsection (2) insert—

“(2A) An appeal under this section is to be made by giving written notice of the appeal to the Scottish Ministers before the date specified in the scheduled monument enforcement notice as the date on which it is to take effect.”,
  - (d) after subsection (3) insert—

*Status: This is the original version (as it was originally enacted).*

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- “(3A) A person who gives notice of appeal under this section must submit to the Scottish Ministers, either when giving the notice or within such time as may be prescribed, a statement in writing—
- (a) specifying the grounds on which the appeal is made,
  - (b) giving such further information as may be prescribed.”,
- (e) subsections (4) and (5) are repealed.