



# Ancient Monuments and Archaeological Areas Act 1979

## 1979 CHAPTER 46

### PART I

#### ANCIENT MONUMENTS

##### **Modifications etc. (not altering text)**

- C1** Pt. I (ss. 1-32) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para.10(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### *Protection of scheduled monuments*

### **1 Schedule of monuments.**

- (1) The Secretary of State shall compile and maintain for the purposes of this Act (in such form as he thinks fit) a schedule of monuments (referred to below in this Act as “the Schedule”).
- (2) The Secretary of State shall on first compiling the Schedule include therein—
  - (a) any monument included in the list last published before the commencement of this Act under section 12 of the <sup>M1</sup>Ancient Monuments Consolidation and Amendment Act 1913; and
  - (b) any monument in respect of which the Secretary of State has before the commencement of this Act served notice on any person in accordance with section 6(1) of the <sup>M2</sup>Ancient Monuments Act 1931 of his intention to include it in a list to be published under section 12.
- (3) Subject to subsection (4) below, the Secretary of State may on first compiling the Schedule or at any time thereafter include therein any monument which appears to him to be of national importance.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F1</sup>The Secretary of State shall consult the Historic Buildings and Monuments Commission for England (in this Act referred to as “the Commission”) before he includes in the Schedule a monument situated in England.]

- (4) The power of the Secretary of State under subsection (3) above to include any monument in the Schedule does not apply to any structure which is occupied as a dwelling house by any person other than a person employed as the caretaker thereof or his family.
- (5) The Secretary of State may—
- (a) exclude any monument from the Schedule; or
  - (b) amend the entry in the Schedule relating to any monument (whether by excluding anything previously included as part of the monument or adding anything not previously so included, or otherwise).

[<sup>F2</sup>In the case of a monument situated in England, the Secretary of State shall consult with the Commission before he makes an exclusion or amendment.]

- (6) As soon as may be after—
- (a) including any monument in the Schedule under subsection (3) above;
  - (b) amending the entry in the Schedule relating to any monument; or
  - (c) excluding any monument from the Schedule;

the Secretary of State shall [<sup>F3</sup>(subject to subsection (6A) below)] inform the owner and (if the owner is not the occupier) the occupier of the monument, and any local authority in whose area the monument is situated, of the action taken and, in a case falling within paragraph (a) or (b) above, shall also send to him or them a copy of the entry or (as the case may be) of the amended entry in the Schedule relating to that monument.

- [<sup>F4</sup>(6A) Subsection (6) above shall not apply as regards a monument situated in England but, as soon as may be after acting as mentioned in paragraph (a), (b) or (c) of that subsection as regards such a monument, the Secretary of State shall inform the Commission of the action taken and, in a case falling within paragraph (a) or (b) of that subsection, shall also send to the Commission a copy of the entry or (as the case may be) of the amended entry in the Schedule relating to that monument.]

- (7) [<sup>F5</sup>Subject to subsection (7A) below] The Secretary of State shall from time to time publish a list of all the monuments which are for the time being included in the Schedule, whether as a single list or in sections containing the monuments situated in particular areas; but in the case of a list published in sections, all sections of the list need not be published simultaneously.

- [<sup>F6</sup>(7A) Subsection (7) above shall not apply as regards monuments situated in England, but the Secretary of State shall from time to time supply the Commission with a list of all the monuments which are so situated and are for the time being included in the Schedule, whether as a single list or in sections containing the monuments situated in particular areas; but in the case of a list supplied in sections, all sections of the list need not be supplied simultaneously.]

- (8) The Secretary of State may from time to time publish amendments of any list published under subsection (7) above, and any such list (as amended) shall be evidence of the inclusion in the Schedule for the time being—
- (a) of the monuments listed; and

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) of any matters purporting to be reproduced in the list from the entries in the Schedule relating to the monuments listed.
- [<sup>F7</sup>(8A) The Secretary of State shall from time to time supply the Commission with amendments of any list supplied under subsection (7A) above.]
- (9) An entry in the Schedule recording the inclusion therein of a monument situated in England and Wales shall be a local land charge.
- (10) It shall be competent to record in the Register of Sasines—
- (a) a certified copy of the entry or (as the case may be) the amended entry in the Schedule relating to any monument in Scotland which is heritable; and
- (b) where any such monument is excluded from the Schedule and a certified copy of the entry in the Schedule relating to it has previously been so recorded under paragraph (a) above, a certificate issued by or on behalf of the Secretary of State stating that it has been so excluded.
- (11) In this Act “scheduled monument” means any monument which is for the time being included in the Schedule.

#### Textual Amendments

- F1** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 25\(2\)](#)
- F2** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 25\(3\)](#)
- F3** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 25\(4\)](#)
- F4** [S. 1\(6A\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 25\(5\)\(9\)](#)
- F5** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 25\(6\)](#)
- F6** [S. 1\(7A\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 25\(7\)](#)
- F7** [S. 1\(8A\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 25\(8\)](#)

#### Marginal Citations

- M1** 1913 c. 32.
- M2** 1931 c. 16.

#### [<sup>F8</sup>1A Commission’s functions as to informing and publishing.

- (1) As soon as may be after the Commission—
- (a) have been informed as mentioned in section 1(6A) of this Act, and
- (b) in a case falling within section 1(6)(a) or (b) of this Act, have received a copy of the entry or (as the case may be) of the amended entry from the Secretary of State,
- the Commission shall inform the owner and (if the owner is not the occupier) the occupier of the monument, and any local authority in whose area the monument is situated, of the inclusion, amendment or exclusion and, in a case falling within section 1(6)(a) or (b), shall also send to him or them a copy of the entry or (as the case may be) of the amended entry in the Schedule relating to that monument.
- (2) As soon as may be after the Commission receive a list or a section in pursuance of section 1(7A) of this Act, they shall publish the list or section (as the case may be).
- (3) The Commission shall from time to time publish amendments of any list published under subsection (2) above, and any such list (as amended) shall be evidence of the inclusion in the Schedule for the time being—

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) of the monuments listed; and
- (b) of any matters purporting to be reproduced in the list from the entries in the Schedule relating to monuments listed.]

#### Textual Amendments

**F8** S. 1A inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, Sch. 4 para. 26

## 2 Control of works affecting scheduled monuments.

- (1) If any person executes or causes or permits to be executed any works to which this section applies he shall be guilty of an offence unless the works are authorised under this Part of this Act.
- (2) This section applies to any of the following works, that is to say—
  - (a) any works resulting in the demolition or destruction of or any damage to a scheduled monument;
  - (b) any works for the purpose of removing or repairing a scheduled monument or any part of it or of making any alterations or additions thereto; and
  - (c) any flooding or tipping operations on land in, on or under which there is a scheduled monument.
- (3) Without prejudice to any other authority to execute works conferred under this Part of this Act, works to which this section applies are authorised under this Part of this Act if—
  - (a) the Secretary of State has granted written consent (referred to below in this Act as “scheduled monument consent”) for the execution of the works; and
  - (b) the works are executed in accordance with the terms of the consent and of any conditions attached to the consent.
- (4) Scheduled monument consent may be granted either unconditionally or subject to conditions (whether with respect to the manner in which or the persons by whom the works or any of the works are to be executed or otherwise).
- (5) Without prejudice to the generality of subsection (4) above, a condition attached to a scheduled monument consent may require that
  - [<sup>F9</sup>(a) a person authorised by the Commission (in a case where the monument in question is situated in England), or
  - (b) the Secretary of State or a person authorised by the Secretary of State (in any other case)]

be afforded an opportunity, before any works to which the consent relates are begun, to examine the monument and its site and carry out such excavations therein as appear to the Secretary of State to be desirable for the purpose of archaeological investigation.
- (6) Without prejudice to subsection (1) above, if a person executing or causing or permitting to be executed any works to which a scheduled monument consent relates fails to comply with any condition attached to the consent he shall be guilty of an offence, unless he proves that he took all reasonable precautions and exercised all due diligence to avoid contravening the condition.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) In any proceedings for an offence under this section in relation to works within subsection (2)(a) above it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid or prevent damage to the monument.
- (8) In any proceedings for an offence under this section in relation to works within subsection (2)(a) or (c) above it shall be a defence for the accused to prove that he did not know and had no reason to believe that the monument was within the area affected by the works or (as the case may be) that it was a scheduled monument.
- (9) In any proceedings for an offence under this section it shall be a defence to prove that the works were urgently necessary in the interests of safety or health and that notice in writing of the need for the works was given to the Secretary of State as soon as reasonably practicable.
- (10) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment to a fine.
- (11) Part I of Schedule 1 to this Act shall have effect with respect to applications for, and the effect of, scheduled monument consent.

#### Textual Amendments

**F9** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 27](#)

#### Modifications etc. (not altering text)

**C2** S. 2 excluded (18.12.1996) by [1996 c. 61, s. 12, Sch. 7 para. 4\(2\)](#)

### 3 Grant of scheduled monument consent by order of the Secretary of State.

- (1) The Secretary of State may by order grant scheduled monument consent for the execution of works of any class or description specified in the order, and any such consent may apply to scheduled monuments of any class or description so specified.

[<sup>F10</sup>Before granting consent in relation to monuments of a class or description which includes monuments situated in England, the Secretary of State shall consult with the Commission in relation to the monuments so situated.]

- (2) Any conditions attached by virtue of section 2 of this Act to a scheduled monument consent granted by an order under this section shall apply in such class or description of cases as may be specified in the order.
- (3) The Secretary of State may direct that scheduled monument consent granted by an order under this section, shall not apply to any scheduled monument specified in the direction, and may withdraw any direction given under this subsection.

[<sup>F11</sup>Before making a direction in relation to a monument situated in England, or withdrawing such a direction, the Secretary of State shall consult with the Commission.]

- (4) A direction under subsection (3) above shall not take effect until notice of it has been served on the occupier or (if there is no occupier) on the owner of the monument in question.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) References below in this Act to a scheduled monument consent do not include references to a scheduled monument consent granted by an order under this section, unless the contrary intention is expressed.

#### Textual Amendments

- F10** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 28\(2\)](#)  
**F11** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 28\(3\)](#)

#### 4 Duration, modification and revocation of scheduled monument consent.

- (1) Subject to subsection (2) below, if no works to which a scheduled monument consent relates are executed or started within the period of five years beginning with the date on which the consent was granted, or such longer or shorter period as may be specified for the purposes of this subsection in the consent, the consent shall cease to have effect at the end of that period (unless previously revoked in accordance with the following provisions of this section).
- (2) Subsection (1) above does not apply to a scheduled monument consent which provides that it shall cease to have effect at the end of a period specified therein.
- (3) If it appears to the Secretary of State to be expedient to do so, he may by a direction given under this section modify or revoke a scheduled monument consent to any extent he considers expedient.
- [<sup>F12</sup>Where a direction would (if given) affect a monument situated in England, the Secretary of State shall consult with the Commission before he gives such a direction.]
- (4) Without prejudice to the generality of the power conferred by subsection (3) above to modify a scheduled monument consent, it extends to specifying a period, or altering any period specified, for the purposes of subsection (1) above, and to including a provision to the effect mentioned in subsection (2) above, or altering any period specified for the purposes of any such provision.
- (5) Part II of Schedule 1 to this Act shall have effect with respect to directions under this section modifying or revoking a scheduled monument consent.

#### Textual Amendments

- F12** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 29](#)

#### 5 Execution of works for preservation of a scheduled monument by Secretary of State in cases of urgency.

- (1) If it appears to the Secretary of State that any works are urgently necessary for the preservation of a scheduled monument he may enter the site of the monument and execute those works, after giving the owner and (if the owner is not the occupier) the occupier of the monument not less than seven days' notice in writing of his intention to do so.
- (2) Where the Secretary of State executes works under this section for repairing any damage to a scheduled monument—

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) any compensation order previously made in respect of that damage under [F13]section 130 of the Powers of Criminal Courts (Sentencing) Act 2000] (compensation orders against convicted persons) in favour of any other person shall be enforceable (so far as not already complied with) as if it had been made in favour of the Secretary of State; and
  - (b) any such order subsequently made in respect of that damage shall be made in favour of the Secretary of State.
- [F14](3) If it appears to the Secretary of State that any works are urgently necessary for the preservation of a scheduled monument situated in England, he may (instead of acting as mentioned in subsection (1) above) authorise the Commission to enter the site of the monument and execute the works as are specified in the authorisation.
- (4) In that case, the Commission may enter the site and execute the works after giving the owner and (if the owner is not the occupier) the occupier of the monument not less than seven day's notice in writing of their intention to do so.
- (5) Where the Secretary of State gives an authorisation under subsection (3) above, subsection (2) above shall have effect with the substitution of "Commission" for "Secretary of State" (in each place) and of "execute" for "executes".]

#### Textual Amendments

**F13** Words in s. 5(2)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 58**

**F14** S. 5(3)–(5) inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 30**

## 6 Powers of entry for inspection of scheduled monuments, etc.

- (1) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of inspecting any scheduled monument in, on or under the land with a view to ascertaining its condition and—
- (a) whether any works affecting the monument are being carried out in contravention of section 2(1) of this Act; or
  - (b) whether it has been or is likely to be damaged (by any such works or otherwise).
- (2) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of inspecting any scheduled monument in, on or under the land in connection with—
- (a) any application for scheduled monument consent for works affecting that monument; or
  - (b) any proposal by the Secretary of State to modify or revoke a scheduled monument consent for any such works.
- (3) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of—
- (a) observing the execution on the land of any works to which a scheduled monument consent relates; and
  - (b) inspecting the condition of the land and the scheduled monument in question after the completion of any such works;
- so as to ensure that the works in question are or have been executed in accordance with the terms of the consent and of any conditions attached to the consent.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter any land on which any works to which a scheduled monument consent relates are being carried out for the purpose of—
- (a) inspecting the land (including any buildings or other structures on the land) with a view to recording any matters of archaeological or historical interest; and
  - (b) observing the execution of those works with a view to examining and recording any objects or other material of archaeological or historical interest, and recording any matters of archaeological or historical interest, discovered during the course of those works.
- (5) Any person duly authorised in writing by the Secretary of State may enter any land in, on or under which a scheduled monument is situated, with the consent of the owner and (if the owner is not the occupier) of the occupier of the land, for the purpose of erecting and maintaining on or near the site of the monument such notice boards and marker posts as appear to the Secretary of State to be desirable with a view to preserving the monument from accidental or deliberate damage.

[<sup>F15</sup>This subsection does not apply to land in England.]

- (6) References in this section to scheduled monument consent include references to consent granted by order under section 3 of this Act.

#### Textual Amendments

**F15** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 31](#)

#### Modifications etc. (not altering text)

**C3** S. 6(1) restricted (18.12.1996) by [1996 c. 61, s. 12, Sch. 7 para. 4\(3\)](#)

#### [<sup>F16</sup>6A Commission's powers of entry in relation to scheduled monuments.

- (1) Any person duly authorised in writing by the Commission may at any reasonable time enter any land in England for the purpose of inspecting any scheduled monument in, on or under the land with a view to ascertaining whether any works affecting the monument have been or are being carried out in contravention of section 2(1) of this Act and so to enabling the Commission to decide whether to institute proceedings in England for an offence under section 2(1).
- (2) Any person duly authorised in writing by the Commission may at any reasonable time enter any land in England for the purpose of—
- (a) observing the execution on the land of any works to which a scheduled monument consent relates; and
  - (b) inspecting the condition of the land and the scheduled monument in question after the completion of any such works,
- with a view to ascertaining whether the works in question are or have been executed in accordance with the terms of the consent and of any conditions attached to the consent, and so to enabling the Commission to decide whether to institute proceedings in England for an offence under section 2(1) or (6) of this Act.
- (3) Any person duly authorised in writing by the Commission may at any reasonable time enter any land in England for the purpose of inspecting



*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

any scheduled monument in, on or under the land in connection with any consultation made in respect of the monument under section 4(3) of this Act or paragraph 3(3)(c) of Schedule 1 to this Act.

- (4) Any person duly authorised in writing by the Commission may enter any land which is in England and in, on or under which a scheduled monument is situated, with the consent of the owner and (if the owner is not the occupier) of the occupier of the land, for the purpose of erecting and maintaining on or near the site of the monument such notice boards and marker posts as appear to the Commission to be desirable with a view to preserving the monument from accidental or deliberate damage.
- (5) References in this section to scheduled monument consent include references to consent granted by order under section 3 of this Act.]

#### Textual Amendments

**F16** S. 6A inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, Sch. 4 para. 32

#### Modifications etc. (not altering text)

**C4** S. 6A(1) restricted (18.12.1996) by 1996 c. 61, s. 12, Sch. 7 para. 4(3)

## 7 Compensation for refusal of scheduled monument consent.

- (1) Subject to the following provisions of this section, where a person who has an interest in the whole or any part of a monument incurs expenditure or otherwise sustains any loss or damage in consequence of the refusal, or the granting subject to conditions, of a scheduled monument consent in relation to any works of a description mentioned in subsection (2) below, the Secretary of State [<sup>F17</sup>or (where the monument in question is situated in England) the Commission] shall pay to that person compensation in respect of that expenditure, loss or damage.

References in this section and in section 8 of this Act to compensation being paid in respect of any works are references to compensation being paid in respect of any expenditure incurred or other loss or damage sustained in consequence of the refusal, or the granting subject to conditions, of a scheduled monument consent in relation to those works.

- (2) The following are works in respect of which compensation is payable under this section—
  - (a) works which are reasonably necessary for carrying out any development for which planning permission had been granted (otherwise than by a general development order) before the time when the monument in question became a scheduled monument and was still effective at the date of the application for scheduled monument consent;
  - (b) works which do not constitute development, or constitute development such that planning permission is granted therefor by a general development order; and
  - (c) works which are reasonably necessary for the continuation of any use of the monument for any purpose for which it was in use immediately before the date of the application for scheduled monument consent.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

For the purposes of paragraph (c) above, any use in contravention of any legal restrictions for the time being applying to the use of the monument shall be disregarded.

- (3) The compensation payable under this section in respect of any works within subsection (2)(a) above shall be limited to compensation in respect of any expenditure incurred or other loss or damage sustained by virtue of the fact that, in consequence of the Secretary of State's decision, any development for which the planning permission in question was granted could not be carried out without contravening section 2(1) of this Act.
- (4) A person shall not be entitled to compensation under this section by virtue of subsection (2)(b) above if the works in question or any of them would or might result in the total or partial demolition or destruction of the monument, unless those works consist solely of operations involved in or incidental to the use of the site of the monument for the purposes of agriculture or forestry (including afforestation).
- (5) In a case where scheduled monument consent is granted subject to conditions, a person shall not be entitled to compensation under this section by virtue of subsection (2)(c) above unless compliance with those conditions would in effect make it impossible to use the monument for the purpose there mentioned.
- (6) In calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of an interest in land—
  - (a) it shall be assumed that any subsequent application for scheduled monument consent in relation to works of a like description would be determined in the same way; but
  - (b) if, in the case of a refusal of scheduled monument consent, the Secretary of State, on refusing that consent, undertook to grant such consent for some other works affecting the monument in the event of an application being made in that behalf, regard shall be had to that undertaking.
- (7) References in this section to a general development order are references to a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land.

#### Textual Amendments

**F17** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 33](#)

## 8 Recovery of compensation under section 7 on subsequent grant of consent.

- (1) Subject to the following provisions of this section, this section applies—
  - (a) in a case where compensation under section 7 of this Act was paid in consequence of the refusal of a scheduled monument consent, if the Secretary of State subsequently grants scheduled monument consent for the execution of all or any of the works in respect of which the compensation was paid; and
  - (b) in a case where compensation under that section was paid in consequence of the granting of a scheduled monument consent subject to conditions, if the Secretary of State subsequently so modifies that consent that those conditions, or any of them, cease to apply to the execution of all or any of the works in respect of which the compensation was paid or grants a new consent in respect of all or any of those works free from those conditions, or any of them.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) This section does not apply in any case unless—
- (a) the compensation paid exceeded £20; and
  - <sup>F18</sup>(b) the requirement mentioned in subsection (2A) below is fulfilled]

<sup>F19</sup>(2A) The requirement is that—

- (a) where the monument in question is situated in England, the Commission have caused notice of the payment of compensation to be deposited with the council of each district or London borough in which the monument is situated or (where it is situated in the City of London, the Inner Temple or the Middle Temple) with the Common Council of the City of London;
  - (b) where the monument in question is situated in Scotland, the Secretary of State has caused such notice to be deposited with the local authority of each area in which the monument is situated;
  - (c) where the monument in question is situated in Wales, the Secretary of State has caused such notice to be deposited with the council of each <sup>F20</sup>county or county borough] in which the monument is situated.]
- (3) In granting or modifying a scheduled monument consent in a case to which this section applies the Secretary of State may do so on terms that no works in respect of which the compensation was paid are to be executed in pursuance of the consent until the recoverable amount has been repaid to the Secretary of State or secured to his satisfaction <sup>F21</sup>or (as the case may be) has been repaid to the Commission or secured to their satisfaction].

Subject to subsection (4) below, in this subsection “the recoverable amount” means such amount (being an amount representing the whole of the compensation previously paid or such part thereof as the Secretary of State thinks fit) as the Secretary of State may specify in giving notice of his decision on the application for scheduled monument consent or (as the case may be) in the direction modifying the consent.

- (4) Where a person who has an interest in the whole or any part of a monument is aggrieved by the amount specified by the Secretary of State as the recoverable amount for the purposes of subsection (3) above, he may require the determination of that amount to be referred to the Lands Tribunal or (in the case of a monument situated in Scotland) to the Lands Tribunal for Scotland; and in any such case the recoverable amount for the purposes of that subsection shall be such amount (being an amount representing the whole or any part of the compensation previously paid) as that Tribunal may determine to be just in the circumstances of the case.
- (5) A notice deposited under subsection (2)(b) above shall specify the decision which gave rise to the right to compensation, the monument affected by the decision, and the amount of the compensation.
- (6) A notice so deposited in the case of a monument situated in England and Wales shall be a local land charge; and for the purposes of the <sup>M3</sup>Local Land Charges Act 1975 the council with whom any such notice is deposited shall be treated as the originating authority as respects the charge thereby constituted.
- (7) A notice so deposited in the case of any monument situated in Scotland which is heritable may be recorded in the Register of Sasines.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F18** S. 8(2)(b) substituted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 34(2)(5)**
- F19** S. 8(2A) inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 34(3)(5)**
- F20** Words in s. 8(2A)(c) substituted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 56(1)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch.2**
- F21** Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 34(4)(5)**

#### Marginal Citations

- M3** 1975 c. 76.

## 9 Compensation where works affecting a scheduled monument cease to be authorised.

- (1) Subject to the following provisions of this section, where any works affecting a scheduled monument which were previously authorised under this Part of this Act cease to be so, then, if any person who has an interest in the whole or any part of the monument—
- (a) has incurred expenditure in carrying out works which are rendered abortive by the fact that any further works have ceased to be so authorised; or
  - (b) has otherwise sustained loss or damage which is directly attributable to that fact;
- the Secretary of State [<sup>F22</sup>or (where the monument in question is situated in England) the Commission] shall pay to that person compensation in respect of that expenditure, loss or damage.
- (2) Subsection (1) above only applies where the works cease to be authorised under this Part of this Act—
- (a) by virtue of the fact that a scheduled monument consent granted by order under section 3 of this Act ceases to apply to any scheduled monument (whether by virtue of variation or revocation of the order or by virtue of a direction under subsection (3) of that section); or
  - (b) by virtue of the modification or revocation of a scheduled monument consent by a direction given under section 4 of this Act; or
  - (c) in accordance with paragraph 8 of Schedule 1 to this Act, by virtue of the service of a notice of proposed modification or revocation of a scheduled monument consent under paragraph 5 of that Schedule.
- (3) A person shall not be entitled to compensation under this section in a case falling within subsection (2)(a) above unless, on an application for scheduled monument consent for the works in question, consent is refused, or is granted subject to conditions other than those which previously applied under the order.
- (4) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out those works.
- (5) Subject to subsection (4) above, no compensation shall be paid under this section in respect of any works carried out before the grant of the scheduled monument consent in question, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that consent.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F22** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 35](#)

### *Acquisition of ancient monuments*

## 10 Compulsory acquisition of ancient monuments.

- (1) The Secretary of State may acquire compulsorily any ancient monument for the purpose of securing its preservation [<sup>F23</sup>; but, where the monument in question is situated in England, he shall consult with the Commission before making a compulsory purchase order.]
- (2) The <sup>M4</sup>[<sup>F24</sup>Acquisition of Land Act 1981] shall apply to any compulsory acquisition by the Secretary of State under this section of an ancient monument situated in England and Wales . . . <sup>F25</sup>
- (3) The <sup>M5</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to any compulsory acquisition by the Secretary of State under this section of an ancient monument situated in Scotland as it applies to a compulsory acquisition by another Minister or by the Secretary of State under section 58 of the <sup>M6</sup>National Health Service (Scotland) Act 1972 in a case falling within section 1(1) of the said Act of 1947.
- (4) For the purpose of assessing compensation in respect of any compulsory acquisition under this section of a monument which, immediately before the date of the compulsory purchase order, was scheduled, it shall be assumed that scheduled monument consent would not be granted for any works which would or might result in the demolition, destruction or removal of the monument or any part of it.

#### Textual Amendments

**F23** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 36](#)

**F24** Words substituted by [Acquisition of Land Act 1981 \(c. 67\)](#), [Sch. 4 para. 1](#) Table

**F25** Words repealed by [Acquisition of Land Act 1981 \(c. 67\)](#), [Sch. 6 Pt. I](#)

#### Marginal Citations

**M4** [1981 c. 67](#).

**M5** [1947 c. 42](#).

**M6** [1972 c. 58](#).

## 11 Acquisition by agreement or gift of ancient monuments.

- (1) The Secretary of State may acquire by agreement any ancient monument [<sup>F26</sup>but, where the monument in question is situated in England, he shall consult with the Commission before doing so.]

[<sup>F27</sup>(1A) With the consent of the Secretary of State, the Commission may acquire by agreement any ancient monument situated in England.]

- (2) Any local authority may acquire by agreement any ancient monument situated in or in the vicinity of their area.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The Secretary of State or any local authority may accept a gift (whether by deed or will) of any ancient monument [<sup>F28</sup>; but, where the monument in question is situated in England, the Secretary of State shall consult with the Commission before accepting]
- [<sup>F29</sup>(3A) With the consent of the Secretary of State, the Commission may accept a gift (whether by deed or will) of any ancient monument situated in England.]
- (4) The provisions of Part I of the <sup>M7</sup>Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 10 and section 31, shall apply in relation to any acquisition under subsection (1) or (2) above of an ancient monument situated in England and Wales.
- (5) For the purpose of any acquisition under subsection (1) or (2) above of any ancient monument situated in Scotland which is heritable—
- (a) the Lands Clauses Acts (with the exception of the provisions excluded by subsection (6) below) and sections 6 and 70 to 78 of the <sup>M8</sup>Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the <sup>M9</sup>Mines (Working Facilities and Support) Act 1923) shall be incorporated with this section; and
- (b) in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the Secretary of State or the local authority acquiring the monument shall be deemed to be the promoter of the undertaking or company (as the case may require).
- (6) The provisions of the Lands Clauses Acts excluded from being incorporated with this section are—
- (a) those which relate to the acquisition of land otherwise than by agreement;
- (b) those which relate to access to the special Act; and
- (c) sections 120 to 125 of the <sup>M10</sup>Lands Clauses Consolidation (Scotland) Act 1845.

#### Textual Amendments

- F26** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 37\(2\)](#)
- F27** [S. 11\(1A\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 37\(3\)](#)
- F28** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 37\(4\)](#)
- F29** [S. 11\(3A\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 37\(5\)](#)

#### Modifications etc. (not altering text)

- C5** [S. 11](#) functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [25\(2\)\(xxv\)](#) (with art. 35)

#### Marginal Citations

- M7** 1965 c. 56.
- M8** 1845 c. 33.
- M9** 1923 c. 20.
- M10** 1845 c. 19.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Guardianship of ancient monuments*

## **12 Power to place ancient monument under guardianship. E+W**

- (1) Subject to subsection (4) below, a person who has—
- an interest of any description mentioned in subsection (3) below in an ancient monument situated in England and Wales; or
  - any heritable interest in an ancient monument situated in Scotland;
- may, with the consent of the Secretary of State, constitute him by deed guardian of the monument.

[<sup>F30</sup>Where the monument in question is situated in England, the Secretary of State shall consult with the Commission before he so consents.]

[<sup>F31</sup>(1A) Subject to subsection (4) below, a person who has an interest of any description mentioned in subsection (3) below in an ancient monument situated in England may, with the consent of the Commission, given after obtaining the consent of the Secretary of State, constitute the Commission by deed guardian of the Monument.]

- (2) Subject to subsection (4) below, a person who has any such interest in an ancient monument may with the consent of any local authority in or in the vicinity of whose area the monument is situated constitute that authority by deed guardians of the monument.
- (3) The interests in an ancient monument situated in England and Wales which qualify a person to establish guardianship of the monument under subsection (1) [<sup>F32</sup>or (1A)] or (2) above are the following—
- an estate in fee simple absolute in possession;
  - a leasehold estate or interest in possession, being an estate or interest for a term of years of which not less than forty-five are unexpired or (as the case may be) renewable for a term of not less than forty-five years; and
  - an interest in possession for his own life or the life of another, or for lives (whether or not including his own), under any existing or future [<sup>F33</sup>trust of land] under which the estate or interest for the time being subject to the trust falls within paragraph (a) or (b) above.
- (4) A person who is not the occupier of an ancient monument may not establish guardianship of the monument under this section unless the occupier is also a party to the deed executed for the purposes of subsection (1) [<sup>F32</sup>(1A)] or (2) above.
- (5) Any person who has an interest in an ancient monument may be a party to any such deed in addition to the person establishing the guardianship of the monument and (where the latter is not the occupier) the occupier.
- (6) In relation to any monument of which the Secretary of State [<sup>F34</sup>or the Commission] or any local authority have been constituted the guardians under this Act, references below in this Act to the guardianship deed are references to the deed executed for the purposes of subsection (1) or [<sup>F35</sup>(1A)] or (2) above (as the case may be)]
- (7) A guardianship deed relating to any ancient monument situated in England and Wales shall be a local land charge.
- (8) A guardianship deed relating to any ancient monument situated in Scotland may be recorded in the Register of Sasines.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (9) Every person deriving title to any ancient monument from, through or under any person who has executed a guardianship deed shall be bound by the guardianship deed unless—
- (a) in the case of a monument in England and Wales, he derives title by virtue of any disposition made by the person who executed the deed before the date of the deed; or
  - (b) in the case of a monument in Scotland, he is a person who in good faith and for value acquired right (whether completed by infertment or not) to his interest in the monument before the date of the deed.
- (10) The Secretary of State [<sup>F36</sup>or the Commission] or a local authority shall not consent to become guardians of any structure which is occupied as a dwelling house by any person other than a person employed as the caretaker thereof or his family.
- (11) Except as provided by this Act, any person who has any estate or interest in a monument under guardianship shall have the same right and title to, and estate or interest in, the monument in all respects as if the Secretary of State or [<sup>F37</sup>the Commission or the local authority in question (as the case may be)] had not become guardians of the monument.

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F30** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 38\(2\)](#)
- F31** S. 12(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 38\(3\)](#)
- F32** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 38\(4\)](#)
- F33** Words in s. 12(3) substituted (E.W.) (1.1.1997) by 1996 c. 47, s. 25(1), [Sch. 3 para. 17\(a\)](#) (with s. 24(2), 25(4)); S.I. 1996/2974, [art.2](#)
- F34** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 38\(5\)](#)
- F35** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 38\(5\)](#)
- F36** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 38\(6\)](#)
- F37** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 38\(7\)](#)

#### Modifications etc. (not altering text)

- C6** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [25\(2\)\(xxvi\)](#) (with art. 35)

## 12 Power to place ancient monument under guardianship. **S**

- (1) Subject to subsection (4) below, a person who has—
- (a) an interest of any description mentioned in subsection (3) below in an ancient monument situated in England and Wales; or
  - (b) any heritable interest in an ancient monument situated in Scotland;
- may, with the consent of the Secretary of State, constitute him by deed guardian of the monument.



*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F102</sup>Where the monument in question is situated in England, the Secretary of State shall consult with the Commission before he so consents.]

- [<sup>F103</sup>(1A) Subject to subsection (4) below, a person who has an interest of any description mentioned in subsection (3) below in an ancient monument situated in England may, with the consent of the Commission, given after obtaining the consent of the Secretary of State, constitute the Commission by deed guardian of the Monument.]
- (2) Subject to subsection (4) below, a person who has any such interest in an ancient monument may with the consent of any local authority in or in the vicinity of whose area the monument is situated constitute that authority by deed guardians of the monument.
- (3) The interests in an ancient monument situated in England and Wales which qualify a person to establish guardianship of the monument under subsection (1) [<sup>F104</sup>or (1A)] or (2) above are the following—
- (a) an estate in fee simple absolute in possession;
  - (b) a leasehold estate or interest in possession, being an estate or interest for a term of years of which not less than forty-five are unexpired or (as the case may be) renewable for a term of not less than forty-five years; and
  - (c) an interest in possession for his own life or the life of another, or for lives (whether or not including his own), under any existing or future trust for sale under which the estate or interest for the time being subject to the trust falls within paragraph (a) or (b) above.
- (4) A person who is not the occupier of an ancient monument may not establish guardianship of the monument under this section unless the occupier is also a party to the deed executed for the purposes of subsection (1) [<sup>F104</sup>(1A)] or (2) above.
- (5) Any person who has an interest in an ancient monument may be a party to any such deed in addition to the person establishing the guardianship of the monument and (where the latter is not the occupier) the occupier.
- (6) In relation to any monument of which the Secretary of State [<sup>F105</sup>or the Commission] or any local authority have been constituted the guardians under this Act, references below in this Act to the guardianship deed are references to the deed executed for the purposes of subsection (1) or [<sup>F106</sup>(1A) or (2) above (as the case may be)]
- (7) A guardianship deed relating to any ancient monument situated in England and Wales shall be a local land charge.
- (8) A guardianship deed relating to any ancient monument situated in Scotland may be recorded in the Register of Sasines.
- (9) Every person deriving title to any ancient monument from, through or under any person who has executed a guardianship deed shall be bound by the guardianship deed unless—
- (a) in the case of a monument in England and Wales, he derives title by virtue of any disposition made by the person who executed the deed before the date of the deed; or
  - (b) in the case of a monument in Scotland, he is a person who in good faith and for value acquired right (whether [<sup>F107</sup>title has been completed] or not) to his interest in the monument before the date of the deed.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (10) The Secretary of State [<sup>F108</sup>or the Commission] or a local authority shall not consent to become guardians of any structure which is occupied as a dwelling house by any person other than a person employed as the caretaker thereof or his family.
- (11) Except as provided by this Act, any person who has any estate or interest in a monument under guardianship shall have the same right and title to, and estate or interest in, the monument in all respects as if the Secretary of State or [<sup>F109</sup>the Commission or the local authority in question (as the case may be)] had not become guardians of the monument.

#### Extent Information

- E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F102** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 38(2)**
- F103** S. 12(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 38(3)**
- F104** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 38(4)**
- F105** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 38(5)**
- F106** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 38(5)**
- F107** Words in s. 12(9)(b) substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 para. 40(2)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F108** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 38(6)**
- F109** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 38(7)**

#### Modifications etc. (not altering text)

- C6** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **25(2)(xxvi)** (with art. 35)

### 13 Effect of guardianship.

- (1) The Secretary of State [<sup>F38</sup>and the Commission] and any local authority shall be under a duty to maintain any monument which is under their guardianship by virtue of this Act.
- (2) The Secretary of State [<sup>F38</sup>and the Commission] and any local authority shall have full control and management of any monument which is under their guardianship by virtue of this Act.
- (3) With a view to fulfilling their duty under subsection (1) above to maintain a monument of which they are the guardians, the Secretary of State [<sup>F39</sup>or the Commission] or any local authority shall have power to do all such things as may be necessary for the maintenance of the monument and for the exercise by them of proper control and management with respect to the monument.
- (4) Without prejudice to the generality of the preceding provisions of this section, the Secretary of State [<sup>F39</sup>or the Commission] or any local authority shall have power—
- (a) to make any examination of a monument which is under their guardianship by virtue of this Act;

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) to open up any such monument or make excavations therein for the purpose of examination or otherwise; and
  - (c) to remove the whole or any part of any such monument to another place for the purpose of preserving it.
- (5) The Secretary of State [<sup>F39</sup>or the Commission] or any local authority may at any reasonable time enter the site of a monument which is under their guardianship by virtue of this Act for the purpose of exercising any of their powers under this section in relation to the monument (and may authorise any other person to exercise any of those powers on their behalf).
- (6) Subsections (2) to (4) above are subject to any provision to the contrary in the guardianship deed.
- (7) In this Part of this Act “maintenance” includes fencing, repairing, and covering in, of a monument and the doing of any other act or thing which may be required for the purpose of repairing the monument or protecting it from decay or injury, and “maintain” shall be construed accordingly.

#### Textual Amendments

**F38** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 39\(2\)](#)

**F39** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 39\(3\)](#)

#### Modifications etc. (not altering text)

**C6** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [25\(2\)\(xxvi\)](#) (with art. 35)

## 14 Termination of guardianship.

- (1) Subject to the following provisions of this section, where the Secretary of State [<sup>F40</sup>or the Commission] or a local authority have become guardians of any monument under this Act, they may by agreement made with the persons who are for the time being immediately affected by the operation of the guardianship deed—

- (a) exclude any part of the monument from guardianship; or
- (b) renounce guardianship of the monument;

but except as provided above the monument shall remain under guardianship (unless it is acquired by its guardians) until an occupier of the monument who is entitled to terminate the guardianship gives notice in writing to that effect to the guardians of the monument.

An occupier of a monument is entitled to terminate the guardianship of the monument if—

- (a) he has any interest in the monument which would qualify him to establish guardianship of the monument under section 12 of this Act; and
- (b) he is not bound by the guardianship deed.

- (2) A local authority shall consult with the Secretary of State before entering into any agreement under this section.

[<sup>F41</sup>Where the monument in question is situated in England, the Secretary of State shall consult with the Commission before entering into any such agreement.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

The Commission shall consult with the Secretary of State before entering into any such agreement.]

- (3) Neither the Secretary of State [<sup>F42</sup>nor the Commission] nor a local authority may enter into any such agreement unless he or they are satisfied with respect to the part of the monument or (as the case may be) with respect to the whole of the monument in question—
- (a) that satisfactory arrangements have been made for ensuring its preservation after termination of the guardianship; or
  - (b) that it is no longer practicable to preserve it (whether because of the cost of preserving it or otherwise).
- (4) An agreement under this section must be made under seal in the case of a monument situated in England and Wales.
- (5) Where in the case of a monument situated in Scotland the guardianship deed has been recorded in the Register of Sasines in accordance with section 12 of this Act an agreement under this section relating to that monument may also be so recorded.

#### Textual Amendments

**F40** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 40\(2\)](#)

**F41** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 40\(3\)](#)

**F42** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 40\(4\)](#)

#### Modifications etc. (not altering text)

**C6** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\), arts. 1, 25\(2\)\(xxvi\)](#) (with art. 35)

*Acquisition and guardianship of land in the vicinity of an ancient monument, etc.*

## 15 Acquisition and guardianship of land in the vicinity of an ancient monument.

- (1) References in sections 10 to 12 of this Act to an ancient monument shall include references to any land adjoining or in the vicinity of an ancient monument which appears to the Secretary of State [<sup>F43</sup>or the Commission] or a local authority to be reasonably required for any of the following purposes, that is to say—
- (a) the maintenance of the monument or its amenities;
  - (b) providing or facilitating access to the monument;
  - (c) the exercise of proper control or management with respect to the monument;
  - (d) the storage of equipment or materials for the purpose mentioned in paragraph (a) above; and
  - (e) the provision of facilities and services for the public for or in connection with affording public access to the monument;
- (and one of those purposes shall accordingly be sufficient to support the compulsory acquisition of any such land under section 10(1) of this Act, instead of the purpose there mentioned).

[<sup>F44</sup>Land may be acquired, or taken into guardianship, by the Commission by virtue of this section only if the land is situated in England.]

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Land may be acquired or taken into guardianship by virtue of this section for any of the purposes relating to an ancient monument mentioned in subsection (1) above either at the same time as the monument or subsequently.
- (3) The Secretary of State [<sup>F45</sup>and the Commission] and any local authority shall have full control and management of any land which is under their guardianship by virtue of this Act after being taken into guardianship by virtue of this section for a purpose relating to any ancient monument, and shall have power to do all such things as may be necessary—
  - (a) for the exercise by them of proper control and management with respect to the land; and
  - (b) for the use of the land for any of the purposes relating to the monument mentioned in subsection (1) above.
- (4) The Secretary of State [<sup>F45</sup>and the Commission] and any local authority may at any reasonable time enter any land which is under their guardianship by virtue of this Act for the purpose of exercising their power under subsection (3) above (and may authorise any other person to do so, and to exercise that power, on their behalf).
- (5) Section 14(1) and (2) of this Act shall apply in relation to any land taken into guardianship by virtue of this section for any purpose relating to an ancient monument as they apply in relation to a monument, but, apart from any termination of guardianship by virtue of that section, any such land shall also cease to be under guardianship if the monument in question ceases to be under guardianship otherwise than by virtue of being acquired by its guardians or ceases to exist.
- (6) References below in this Act, in relation to any monument of which the Secretary of State [<sup>F46</sup>or the Commission] or a local authority are the owners or guardians by virtue of this Act, to land associated with that monument (or to associated land) are references to any land acquired or taken into guardianship by virtue of this section for a purpose relating to that monument, or appropriated for any such purpose under a power conferred by any other enactment.

#### Textual Amendments

- F43** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 41\(2\)](#)
- F44** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 41\(2\)](#)
- F45** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 41\(3\)](#)
- F46** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 41\(4\)](#)

#### Modifications etc. (not altering text)

- C6** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [25\(2\)\(xxvi\)](#) (with art. 35)

## 16 Acquisition of easements and other similar rights over land in the vicinity of an ancient monument.

- (1) The Secretary of State may acquire, by agreement or compulsorily, over land adjoining or in the vicinity of any monument which is under his ownership by virtue of this Act, any easement which appears to him to be necessary—

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) for any of the purposes relating to that monument mentioned in section 15(1) of this Act; or
- (b) for the use of any land associated with that monument for any of those purposes.

[<sup>F47</sup>Where the land in question is situated in England, the Secretary of State shall consult with the Commission before entering into the agreement or making the compulsory purchase order (as the case may be).]

- [<sup>F48</sup>(1A) The Commission may by agreement acquire over land adjoining or in the vicinity of any monument which is under their ownership by virtue of this Act, any such easement as the Secretary of State may acquire by virtue of subsection (1) above.]
- (2) A local authority may by agreement acquire over land adjoining or in the vicinity of any monument which is under their ownership by virtue of this Act any such easement as the Secretary of State may acquire by virtue of subsection (1) above.
  - (3) The power of acquiring an easement under subsection (1) [<sup>F49</sup>or (1A)] or (2) above shall include power to acquire any such easement by the grant of a new right.
  - (4) The Secretary of State [<sup>F50</sup>or the Commission] or any local authority may acquire, for the benefit of any monument or land under his or their guardianship by virtue of this Act, a right of any description which he or they would be authorised to acquire under any of the preceding provisions of this section if the monument or land was under his or their ownership by virtue of this Act, and those provisions shall apply accordingly in any such case.
  - (5) Any right to which subsection (4) above applies—
    - (a) shall be treated for the purposes of its acquisition under this section and in all other respects as if it were a legal easement; and
    - (b) may be enforced by the guardians for the time being of the monument or land for whose benefit it was acquired as if they were the absolute owner in possession of that monument or land.
  - (6) Any right to which subsection (4) above applies which is acquired by agreement under this section for a purpose relating to any monument under guardianship, or for the use of any land associated with any such monument for any purpose relating to that monument—
    - (a) subject to any provision to the contrary in the agreement under which it was acquired, may be revoked by the grantor; and
    - (b) may be revoked by any successor in title of the grantor as respects any of the land over which it is exercisable in which he has an interest;
 if the monument ceases to be under guardianship otherwise than by virtue of being acquired by its guardians or ceases to exist.
  - (7) References above in this section to an easement or (as the case may be) to a legal easement shall be construed in relation to land in Scotland as references to a servitude.
  - (8) Any right to which subsection (4) above applies—
    - (a) shall be a local land charge, if it relates to land in England and Wales; and
    - (b) may be recorded in the Register of Sasines, if it relates to land in Scotland.
  - (9) The <sup>M11</sup>[<sup>F51</sup>Acquisition of Land Act 1981] shall apply to any compulsory acquisition by the Secretary of State under this section of any easement over land in England and Wales . . . <sup>F52</sup>

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (10) The <sup>M12</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to any compulsory acquisition by the Secretary of State under this section of any servitude over land in Scotland as it applies to a compulsory acquisition by another Minister or by the Secretary of State under section 58 of the <sup>M13</sup>National Health Service (Scotland) Act 1972 in a case falling within section 1(1) of the said Act of 1947.
- (11) The provisions of Part I of the <sup>M14</sup>Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 10 and section 31, shall apply in relation to any acquisition by agreement under this section of any easement over land in England and Wales.
- (12) For the purposes of any acquisition by agreement under this section of any servitude over land in Scotland—
- (a) the Lands Clauses Acts (with the exception of the provisions excluded by subsection (13) below) and sections 6 and 70 to 78 of the <sup>M15</sup>Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the <sup>M16</sup>Mines (Working Facilities and Support) Act 1923) shall be incorporated with this section; and
  - (b) in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the Secretary of State or the local authority acquiring the servitude shall be deemed to be the promoter of the undertaking or company (as the case may require).
- (13) The provisions of the Lands Clauses Acts excluded from being incorporated with this section are—
- (a) those which relate to the acquisition of land otherwise than by agreement;
  - (b) those which relate to access to the special Act; and
  - (c) sections 120 to 125 of the <sup>M17</sup>Lands Clauses Consolidation (Scotland) Act 1845.

#### Textual Amendments

- F47** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 42\(2\)](#)
- F48** [S. 16\(1A\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 42\(3\)](#)
- F49** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 42\(4\)](#)
- F50** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 42\(5\)](#)
- F51** Words substituted by [Acquisition of Land Act 1981 \(c. 67\)](#), [Sch. 4 para. 1](#) Table
- F52** Words repealed by [Acquisition of Land Act 1981 \(c. 67\)](#), [Sch. 6 Pt. I](#)

#### Modifications etc. (not altering text)

- C6** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [25\(2\)\(xxvi\)](#) (with art. 35)

#### Marginal Citations

- M11** 1981 c. 67.
- M12** 1947 c. 42.
- M13** 1972 c. 58.
- M14** 1965 c. 56.
- M15** 1845 c. 33.
- M16** 1923 c. 20.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**M17** 1845 c. 19.

*Agreements concerning ancient monuments, etc.*

**17 Agreements concerning ancient monuments and land in their vicinity.**

(1) The Secretary of State may enter into an agreement under this section with the occupier of an ancient monument or of any land adjoining or in the vicinity of an ancient monument.

[<sup>F53</sup>(1A) The Commission may enter into an agreement under this section with the occupier of an ancient monument situated in England or of any land so situated which adjoins or is in the vicinity of an ancient monument so situated.]

(2) A local authority may enter into an agreement under this section with the occupier of any ancient monument situated in or in the vicinity of their area or with the occupier of any land adjoining or in the vicinity of any such ancient monument.

(3) Any person who has an interest in an ancient monument or in any land adjoining or in the vicinity of an ancient monument may be a party to an agreement under this section in addition to the occupier.

(4) An agreement under this section may make provision for all or any of the following matters with respect to the monument or land in question, that is to say—

- (a) the maintenance and preservation of the monument and its amenities;
- (b) the carrying out of any such work, or the doing of any such other thing, in relation to the monument or land as may be specified in the agreement;
- (c) public access to the monument or land and the provision of facilities and information or other services for the use of the public in that connection;
- (d) restricting the use of the monument or land;
- (e) prohibiting in relation to the monument or land the doing of any such thing as may be specified in the agreement; and
- (f) the making by the Secretary of State or [<sup>F54</sup>the Commission or the local authority (as the case may be)] of payments in such manner, of such amounts and on such terms as may be so specified (and whether for or towards the cost of any work provided for under the agreement or in consideration of any restriction, prohibition or obligation accepted by any other party thereto);

and may contain such incidental and consequential provisions as appear to the Secretary of State or [<sup>F54</sup>the Commission or the local authority (as the case may be)] to be necessary or expedient.

(5) Where an agreement under this section expressly provides that the agreement as a whole or any restriction, prohibition or obligation arising thereunder is to be binding on the successors of any party to the agreement (but not otherwise), then, as respects any monument or land in England and Wales, every person deriving title to the monument or land in question from, through or under that party shall be bound by the agreement, or (as the case may be) by that restriction, prohibition or obligation, unless he derives title by virtue of any disposition made by that party before the date of the agreement.

(6) An agreement under this section relating to any monument or land in Scotland and containing any such provision as is mentioned in subsection (5) above may be recorded



*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

in the Register of Sasines, and that subsection shall apply to any such agreement which is so recorded or (as the case may be) to any restriction, prohibition or obligation to which that provision relates.

- (7) [<sup>F55</sup>Section 84 of the Law of Property Act 1925 (c. 20) (power of Lands Tribunal to discharge or modify restrictive covenant) shall not apply to an agreement under this section.]
- (8) Nothing in any agreement under this section to which the Secretary of State is a party shall be construed as operating as a scheduled monument consent.
- [<sup>F56</sup>(9) References to an ancient monument in subsection (1A) above, and in subsection (3) above so far as it applies for the purposes of subsection (1A), shall be construed as if the reference in section 61(12)(b) of this Act to the Secretary of State were to the Commission. ]
- [<sup>F57</sup>(10) References in this section to an ancient monument situated in England include any such monument situated in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England; and an order under section 33(10) of the National Heritage Act 1983 (orders determining limits of waters adjacent to England) applies for the purposes of this subsection as it applies for the purposes of section 33(9) of that Act.]

#### Textual Amendments

- F53** S. 17(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 43(2)**
- F54** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 43(3)**
- F55** S. 17(7) substituted (S.) (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), **Sch. 14 para. 8** (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)
- F56** S. 17(9) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 43(4)**
- F57** S. 17(10) inserted (1.7.2002) by [National Heritage Act 2002 \(c. 14\)](#), ss. {2(2)}, 8(2)

#### Modifications etc. (not altering text)

- C6** Ss. 12-17 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **25(2)(xxvi)** (with art. 35)

#### Marginal Citations

- M18** 1925 c. 20.  
**M19** 1970 c. 35.

### *Powers of limited owners*

## 18 Powers of limited owners for purposes of sections 12, 16 and 17. **E+W**

- (1) Subject to section 12 of this Act, a person may establish guardianship of any land under subsection (1) [<sup>F58</sup>or (1A)] or (2) of that section or join in executing a guardianship deed for the purposes of that section notwithstanding that he is a limited owner of the land.
- (2) A person may—

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) grant any easement, servitude or other right over land which the Secretary of State [<sup>F59</sup>or the Commission] or any local authority are authorised to acquire under section 16 of this Act; or
  - (b) enter into an agreement under section 17 of this Act with respect to any land; notwithstanding that he is a limited owner of the land.
- (3) For the purposes of this section—
- (a) a body corporate or corporation sole is a limited owner of any land in which it has an interest; and
  - (b) any other persons are limited owners of land in which they have an interest only if they hold that interest in one or other of the capacities mentioned in subsection (4) below.
- (4) The capacities referred to in subsection (3)(b) above are the following—
- (a) as tenant for life or statutory owner within the meaning of the <sup>M20</sup>Settled Land Act 1925;
  - <sup>F60</sup>[(b) as trustees of land;]
  - (c) as liferenter or heir of entail in possession (in Scotland); and
  - (d) as trustees for charities or as commissioners or trustees for ecclesiastical, collegiate or other public purposes.
- (5) The <sup>M21</sup>Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 of that Act (general powers of trustees) there were included a power to do any of the following acts in relation to the trust estate or any part of it, that is to say—
- (a) to execute a guardianship deed;
  - (b) to grant any servitude or other right which the Secretary of State or any local authority are authorised to acquire under section 16 of this Act; and
  - (c) to enter into an agreement under section 17 of this Act.
- (6) Subject to subsection (7) below, where a person who is a limited owner of any land by virtue of holding an interest in the land in any of the capacities mentioned in subsection (4) above executes a guardianship deed in relation to the land the guardianship deed shall bind every successive owner of any estate or interest in the land.
- (7) Where the land to which a guardianship deed relates is at the date of the deed subject to any incumbrance not capable of being overreached by the limited owner in exercise of any powers of sale or management conferred on him by law or under any settlement or other instrument, the deed shall not bind the incumbrancer.
- (8) Subject to subsection (9) below, where an agreement under section 17 of this Act to which a limited owner is a party expressly provides that the agreement as a whole or any restriction, prohibition or obligation arising thereunder is to be binding on his successors (but not otherwise), subsections (6) and (7) above shall apply to the agreement or (as the case may be) to the restriction, prohibition or obligation in question as they apply to a guardianship deed.
- (9) Subsection (8) above does not apply to an agreement relating to any land in Scotland unless it is recorded in the Register of Sasines.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F58** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 44\(2\)](#)  
**F59** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 44\(3\)](#)  
**F60** S. 18(4)(b) substituted (E.W.) (1.1.1997) by [1996 c. 47, s. 25\(1\), Sch. 3 para. 17\(b\)](#) (with [s. 24\(2\), 25\(4\)](#)); [S.I. 1996/2974, art.2](#)

#### Marginal Citations

- M20** [1925 c. 18.](#)  
**M21** [1921 c. 58.](#)

## 18 Powers of limited owners for purposes of sections 12, 16 and 17. **S**

- (1) Subject to section 12 of this Act, a person may establish guardianship of any land under subsection (1) [<sup>F110</sup>or (1A)] or (2) of that section or join in executing a guardianship deed for the purposes of that section notwithstanding that he is a limited owner of the land.
- (2) A person may—
- grant any easement, servitude or other right over land which the Secretary of State [<sup>F111</sup>or the Commission] or any local authority are authorised to acquire under section 16 of this Act; or
  - enter into an agreement under section 17 of this Act with respect to any land; notwithstanding that he is a limited owner of the land.
- (3) For the purposes of this section—
- a body corporate or corporation sole is a limited owner of any land in which it has an interest; and
  - any other persons are limited owners of land in which they have an interest only if they hold that interest in one or other of the capacities mentioned in subsection (4) below.
- (4) The capacities referred to in subsection (3)(b) above are the following—
- as tenant for life or statutory owner within the meaning of the <sup>M24</sup>Settled Land Act 1925;
  - as trustees for sale within the meaning of the <sup>M25</sup>Law of Property Act 1925;
  - as liferenter <sup>F112</sup>... in possession (in Scotland); and
  - as trustees for charities or as commissioners or trustees for ecclesiastical, collegiate or other public purposes.
- (5) The <sup>M26</sup>Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 of that Act (general powers of trustees) there were included a power to do any of the following acts in relation to the trust estate or any part of it, that is to say—
- to execute a guardianship deed;
  - to grant any servitude or other right which the Secretary of State or any local authority are authorised to acquire under section 16 of this Act; and

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) to enter into an agreement under section 17 of this Act.
- (6) Subject to subsection (7) below, where a person who is a limited owner of any land by virtue of holding an interest in the land in any of the capacities mentioned in subsection (4) above executes a guardianship deed in relation to the land the guardianship deed shall bind every successive owner of any estate or interest in the land.
- (7) Where the land to which a guardianship deed relates is at the date of the deed subject to any incumbrance not capable of being overreached by the limited owner in exercise of any powers of sale or management conferred on him by law or under any settlement or other instrument, the deed shall not bind the incumbrancer.
- (8) Subject to subsection (9) below, where an agreement under section 17 of this Act to which a limited owner is a party expressly provides that the agreement as a whole or any restriction, prohibition or obligation arising thereunder is to be binding on his successors (but not otherwise), subsections (6) and (7) above shall apply to the agreement or (as the case may be) to the restriction, prohibition or obligation in question as they apply to a guardianship deed.
- (9) Subsection (8) above does not apply to an agreement relating to any land in Scotland unless it is recorded in the Register of Sasines.

#### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F110** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 44\(2\)](#)
- F111** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 44\(3\)](#)
- F112** Words in s. 18(4)(c) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [Sch. 12 para. 40\(3\)](#), [13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

#### Marginal Citations

- M24** 1925 c. 18.
- M25** 1925 c. 20.
- M26** 1921 c. 58.

### *Public access to monuments under public control*

## 19 Public access to monuments under public control.

- (1) Subject to the following provisions of this section, the public shall have access to any monument under the ownership or guardianship of the Secretary of State [<sup>F61</sup>or the Commission] or any local authority by virtue of this Act.
- (2) The Secretary of State [<sup>F62</sup>and the Commission] and any local authority may nevertheless control the times of normal public access to any monument under their ownership or guardianship by virtue of this Act and may also, if they consider it necessary or expedient to do so in the interests of safety or for the maintenance or preservation of the monument, entirely exclude the public from access to any such monument or to any part of it, for such period as they think fit:

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Provided that—

- (a) the power of a local authority under this subsection to control the times of normal public access to any monument shall only be exercisable by regulations under this section; and
  - (b) the power of a local authority under this subsection entirely to exclude the public from access to any monument with a view to its preservation shall only be exercisable with the consent of the Secretary of State.
- (3) The Secretary of State and any local authority may by regulations under [<sup>F63</sup>this subsection] regulate public access to any monument, or to all or any of the monuments, under their ownership or guardianship by virtue of this Act and any such regulations made by the Secretary of State may also apply to any monument, or to all or any of the monuments, under his control or management for any other reason.

[<sup>F64</sup>The Secretary of State shall consult with the Commission before he makes any regulations under this subsection in relation only to monuments situated in England.]

- (4) Without prejudice to the generality of subsection (3) above, regulations made by the Secretary of State or a local authority under [<sup>F65</sup>that subsection] may prescribe the times when the public are to have access to monuments to which the regulations apply and may make such provision as appears to the Secretary of State or to the local authority in question to be necessary for—
- (a) the preservation of any such monument and its amenities or of any property of the Secretary of State or local authority; and
  - (b) prohibiting or regulating any act or thing which would tend to injure or disfigure any such monument or its amenities or to disturb the public in their enjoyment of it;

and may prescribe charges for the admission of the public to any such monument or to any class or description of monuments to which the regulations apply.

[<sup>F66</sup>(4A) The Secretary of State may by regulations under this section make such provision as appears to him necessary for prohibiting or regulating any act or thing which would tend to injure or disfigure any monument under the ownership or guardianship of the Commission by virtue of this Act or the monument's amenities or to disturb the public in their enjoyment of it.

(4B) The Secretary of State shall consult with the Commission before he makes any regulations under subsection (4A) above.]

(5) Without prejudice to subsections (3) and (4) above, the Secretary of State [<sup>F67</sup>and the Commission] and any local authority shall have power to make such charges as they may from time to time determine for the admission of the public to any monument under their ownership or guardianship by virtue of this Act or (in the case of the Secretary of State) to any monument otherwise under his control or management.

(6) Notwithstanding subsection (1) above, any person authorised in that behalf by the Secretary of State [<sup>F68</sup>or by the Commission] or by a local authority may refuse admission—

- (a) to any monument under the ownership or guardianship of the Secretary of State or [<sup>F69</sup>the Commission or that local authority (as the case may be)] by virtue of this Act; or
- (b) (in the case of the Secretary of State) to any monument otherwise under his control or management;

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

to any person he has reasonable cause to believe is likely to do anything which would tend to injure or disfigure the monument or its amenities or to disturb the public in their enjoyment of it.

- (7) If any person contravenes or fails to comply with any provision of any regulations under this section, he shall be liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding [<sup>F70</sup>level 2 on the standard scale].
- (8) Regulations made by a local authority under this section shall not take effect unless they are submitted to and confirmed by the Secretary of State, and the Secretary of State may confirm any such regulations either with or without modifications.
- (9) In relation to any monument under guardianship, subsection (1) above is subject to any provision to the contrary in the guardianship deed.

#### Textual Amendments

- F61** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(2\)](#)
- F62** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(3\)](#)
- F63** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(4\)](#)
- F64** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(4\)](#)
- F65** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(5\)](#)
- F66** [S. 19\(4A\)\(4B\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(6\)](#)
- F67** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(7\)](#)
- F68** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(8\)](#)
- F69** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 45\(8\)](#)
- F70** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48\)](#), [s. 46](#) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [s. 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

#### Modifications etc. (not altering text)

- C7** [S. 19](#) excluded (18.12.1996) by [1996 c. 61, s. 12](#), [Sch. 7 para. 4\(5\)](#)
- C8** [S. 19](#) functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [25\(2\)\(xxvii\)](#) (with art. 35)
- C9** [S. 19\(3\)\(4A\)](#) excluded (18.12.1996) by [1996 c. 61, s. 12](#), [Sch. 7 para. 4\(6\)](#)
- C10** [S. 19\(6\)](#) restricted (18.12.1996) by [1996 c. 61, s. 12](#), [Sch. 7 para. 4\(7\)](#)

## 20 Provision of facilities for the public in connection with ancient monuments.

- (1) The Secretary of State [<sup>F71</sup>and the Commission] and any local authority may provide such facilities and information or other services for the public for or in connection with affording public access—
- (a) to any monument under their ownership or guardianship by virtue of this Act; or
  - (b) (in the case of the Secretary of State) to any monument otherwise under his control or management;
- as appear to them to be necessary or desirable.
- (2) Facilities and information or other services for the public may be provided under this section in or on the monument itself or on any land associated with the monument.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The Secretary of State [<sup>F72</sup>and the Commission] and any local authority shall have power to make such charges as they may from time to time determine for the use of any facility or service provided by them for the public under this section.

#### Textual Amendments

**F71** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 46\(2\)](#)

**F72** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 46\(3\)](#)

#### Modifications etc. (not altering text)

**C11** S. 20 functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [25\(2\)\(xxvii\)](#) (with art. 35)

### *Transfer of ownership and guardianship of ancient monuments*

## **21 Transfer of ancient monuments between local authorities and Secretary of State.**

- (1) Subject to subsection (2) below, the Secretary of State [<sup>F73</sup>and the Commission] and any local authority may, in respect of any monument of which they are the owners or guardians by virtue of this Act or any land associated with any such monument, enter into and carry into effect any agreements for the transfer—
- from the Secretary of State to the local authority;
  - from the local authority to the Secretary of State; or
  - from the local authority to another local authority; [<sup>F74</sup>or
  - from the Secretary of State to the Commission; or
  - from the Commission to the Secretary of State; or
  - from the Commission to the local authority; or
  - from the local authority to the Commission;]
- of that monument or land or (as the case may be) of the guardianship of that monument or land.
- (2) Where the Secretary of State [<sup>F75</sup>or the Commission] or the local authority in question are guardians of a monument or associated land, they may not enter into an agreement under this section with respect to that monument or land without the consent of the persons who are for the time being immediately affected by the operation of the guardianship deed.
- [<sup>F76</sup>(3) The Commission may not enter into an agreement under subsection (1) above in respect of a monument or land not situated in England.
- (4) The Secretary of State may not enter into an agreement mentioned in subsection (1)(a) or (b) above in respect of a monument or land situated in England without consulting the Commission.
- (5) The Commission may not enter into an agreement mentioned in subsection (1)(f) above without consulting the Secretary of State.
- (6) The Commission may not enter into an agreement mentioned in subsection (1)(g) above without the consent of the Secretary of State.]

*Status: Point in time view as at 28/11/2004.*

**Changes to legislation:** Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

- F73** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 47(2)**  
**F74** [S. 21\(1\)\(d\)–\(g\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 47(2)**  
**F75** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 47(3)**  
**F76** [S. 21\(3\)–\(6\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 47(4)**

### Modifications etc. (not altering text)

- C12** [S. 21](#) functions made exercisable concurrently (E.W.) (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **25(2)(xxviii)** (with art. 35)

## Ancient Monuments Boards

### 22 Ancient Monuments Boards.

- (1) The advisory boards constituted under section 15 of the Ancient Monuments Consolidation and Amendment Act 1913 shall continue to exist under the names by which they were respectively known immediately before the commencement of this Act, that is to say—
- (a) ..... <sup>F77</sup>
- (b) [<sup>F78</sup>the Ancient Monuments Board for Scotland; and]
- (c) the Ancient Monuments Board for Wales.
- (2) ..... <sup>F77</sup>
- (3) [<sup>F79</sup>The Ancient Monuments Board for Scotland shall consist of members representing the following bodies, that is to say—
- The Royal Commission on the Ancient and Historical Monuments of Scotland
- The Royal Incorporation of Architects in Scotland
- The Society of Antiquaries of Scotland
- and of such other members as the Secretary of State may appoint.]
- (4) The Ancient Monuments Board for Wales shall consist of members representing the following bodies, that is to say—
- The Royal Commission on Ancient and Historical Monuments (Wales)
- The National Museum of Wales
- The Cambrian Archaeological Association
- The Royal Institute of British Architects
- and of such other members as the Secretary of State may appoint.
- (5) References in this Act and in any other enactment to the Ancient Monuments Board shall be construed—
- (a) ..... <sup>F77</sup>
- (b) [<sup>F80</sup>in relation to Scotland, as references to the Ancient Monuments Board for Scotland; and]
- (c) in relation to Wales, as references to the Ancient Monuments Board for Wales.



*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) It shall be the function of the Ancient Monuments Board to advise the Secretary of State with respect to the exercise of his functions under this Act, whether generally or in relation to any particular case or classes of case.
- (7) Without prejudice to the generality of subsection (6) above the Ancient Monuments Board may advise the Secretary of State with respect to any of the following, that is to say—
- (a) the inclusion of any monument in the Schedule under section 1(3) of this Act;
  - (b) the exclusion of any monument from the Schedule;
  - (c) the amendment of the entry in the Schedule relating to any monument;
  - (d) the termination of guardianship by an agreement under section 14 of this Act; and
  - (e) the disposal (in accordance with section 30 of this Act) of any land acquired under section 10, 11 or 21 of this Act.
- (8) The Secretary of State may by regulations under this section amend subsection (2), (3) or (4) above.

#### Textual Amendments

- F77** S. 22(1)(a), (2), (5)(a) repealed by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 6**
- F78** S. 22(1)(b) repealed (S.) (31.5.2003) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), s. 21(2), **Sch. 4 para. 6(a)(i)**; S.S.I. 2003/219, art. 2(1)(c)
- F79** S. 22(3) repealed (S.) (31.5.2003) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), s. 21(2), **Sch. 4 para. 6(a)(ii)**; S.S.I. 2003/219, art. 2(1)(c)
- F80** S. 22(5)(b) repealed (S.) (31.5.2003) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), s. 21(2), **Sch. 4 para. 6(a)(iii)**; S.S.I. 2003/219, art. 2(1)(c)

## 23 Annual reports of Ancient Monuments Boards.

[<sup>F81</sup>. . . <sup>F82</sup>, the Ancient Monuments Board for Scotland and] the Ancient Monuments Board for Wales shall [<sup>F83</sup>each], before such date in every year as the Secretary of State may fix, send to the Secretary of State a report on the discharge by [<sup>F84</sup>it] of [<sup>F84</sup>its] functions during the previous year, and the Secretary of State shall lay a copy of [<sup>F83</sup>each] such report before [<sup>F83</sup>each] House of Parliament.

#### Textual Amendments

- F81** Words in s. 23 repealed (S.) (31.5.2003) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), s. 21(2), **Sch. 4 para. 6(b)(i)**; S.S.I. 2003/219, art. 2(1)(c)
- F82** Words repealed by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 6**
- F83** Word in s. 23 repealed (S.) (31.5.2003) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), s. 21(2), **Sch. 4 para. 6(b)(ii)**; S.S.I. 2003/219, art. 2(1)(c)
- F84** Word in s. 23 substituted (S.) (31.5.2003) by Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4), s. 21(2), **Sch. 4 para. 6(b)(iii)**; S.S.I. 2003/219, art. 2(1)(c)

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Miscellaneous and supplemental*

## **24 Expenditure by Secretary of State or local authority on acquisition and preservation of ancient monuments, etc.**

- (1) [<sup>F85</sup>Subject to subsection (3A) below] The Secretary of State may defray or contribute towards the cost of the acquisition by any person of any ancient monument.
  - (2) [<sup>F85</sup>Subject to subsection (3A) below] The Secretary of State may undertake, or assist in, or defray or contribute towards the cost of the removal of any ancient monument or of any part of any such monument to another place for the purpose of preserving it, and may at the request of the owner undertake, or assist in, or defray or contribute towards the cost of the preservation, maintenance and management of any ancient monument.
  - (3) [<sup>F85</sup>Subject to subsection (3A) below] The Secretary of State may contribute towards the cost of the provision of facilities or services for the public by a local authority under section 20 of this Act.
- [<sup>F86</sup>(3A) As respects a monument situated in England, subsections (1) to (3) above shall apply as if “Commission” were substituted for “Secretary of State”.
- [ The reference in subsection (3A) above to a monument situated in England includes <sup>F87</sup>(3AA) any monument situated in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England; and an order under section 33(10) of the National Heritage Act 1983 (orders determining limits of waters adjacent to England) applies for the purposes of this subsection as it applies for the purposes of section 33(9) of that Act.]
- (3B) References to an ancient monument in subsections (1) and (2) above, as amended by subsection (3A) above, shall be construed as if the reference in section 61(12)(b) of this Act to the Secretary of State were to the Commission.]
  - (4) Any local authority may at the request of the owner undertake, or assist in, or defray or contribute towards the cost of the preservation, maintenance and management of any ancient monument situated in or in the vicinity of their area.
  - (5) No expenses shall be incurred by the Secretary of State [<sup>F88</sup>or the Commission] or any local authority under this section in connection with any monument which is occupied as a dwelling house by any person other than a person employed as the caretaker thereof or his family.

#### **Textual Amendments**

**F85** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 48\(2\)](#)

**F86** [S. 24\(3A\)\(3B\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 48\(3\)](#)

**F87** [S. 24\(3AA\)](#) inserted (1.7.2002) by [National Heritage Act 2002 \(c. 14\)](#), ss. {2(3)}, 8(2)

**F88** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 48\(4\)](#)

## **25 Advice and superintendence by Secretary of State.**

- (1) [<sup>F89</sup>Subject to subsection (3A) below] The Secretary of State may give advice with reference to the treatment of any ancient monument.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) [<sup>F89</sup>Subject to subsection (3A) below] The Secretary of State may also, if in his opinion it is advisable, superintend any work in connection with any ancient monument if invited to do so by the owner, and shall superintend any such work, whether required to do so by the owner or not, in connection with any scheduled monument, if in his opinion it is advisable.
- (3) [<sup>F89</sup>Subject to subsection (3A) below] The Secretary of State may make a charge for giving advice and superintendence under this section or may give it free of charge, as he thinks fit.
- [<sup>F90</sup>(3A) As respects a monument situated in England, subsections (1) to (3) above shall apply as if “Commission” were substituted for “Secretary of State”, “their” for “his” (in each place) and “they think” for “he thinks”.
- (3B) References to an ancient monument in subsections (1) and (2) above, as amended by subsection (3A) above, shall be construed as if the reference in section 61(12)(b) of this Act to the Secretary of State were to the Commission.]

#### Textual Amendments

**F89** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 49\(2\)\(4\)\(5\)](#)

**F90** S. 25(3A)(3B) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 49\(3\)–\(5\)](#)

#### Modifications etc. (not altering text)

**C13** S. 25(2) restricted (18.12.1996) by [1996 c. 61, s. 12, Sch. 7 para. 4\(8\)\(a\)](#)

**C14** S. 25(3) excluded (18.12.1996) by [1996 c. 61, s. 12, Sch. 7 para. 4\(8\)\(b\)](#)

## 26 Power of entry on land believed to contain an ancient monument.

- (1) A person duly authorised in writing by the Secretary of State may at any reasonable time enter any land in, on or under which the Secretary of State knows or has reason to believe there is an ancient monument for the purpose of inspecting the land (including any building or other structure on the land) with a view to recording any matters of archaeological or historical interest.
- (2) Subject to subsection (3) below, a person entering any land in exercise of the power conferred by subsection (1) above may carry out excavations in the land for the purpose of archaeological investigation.
- (3) No excavation shall be made in exercise of the power conferred by subsection (2) above except with the consent of every person whose consent to the making of the excavation would be required apart from this section.

#### Modifications etc. (not altering text)

**C15** S. 26 restricted (18.12.1996) by [1996 c. 61, s. 12, Sch. 7 para. 4\(3\)](#)

## 27 General provisions as to compensation for depreciation under Part I.

- (1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 5 of the <sup>M22</sup>Land Compensation Act 1961 or, in relation to land in Scotland, the rules set out in section 12 of the <sup>M23</sup>Land Compensation (Scotland) Act

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1963 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

- (2) This section applies to any compensation payable under section 7 or 9 of this Act in respect of any loss or damage consisting of depreciation of the value of an interest in land.
- (3) Where an interest in land is subject to a mortgage—
- (a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;
  - (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
  - (c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
  - (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

#### Marginal Citations

M22 1961 c. 33.

M23 1963 c. 51.

## 28 Offence of damaging certain ancient monuments.

- (1) A person who without lawful excuse destroys or damages any protected monument—
- (a) knowing that it is a protected monument; and
  - (b) intending to destroy or damage the monument or being reckless as to whether the monument would be destroyed or damaged;
- shall be guilty of an offence.

- (2) This section applies to anything done by or under the authority of the owner of the monument, other than an act for the execution of excepted works, as it applies to anything done by any other person.

In this subsection “excepted works” means works for which scheduled monument consent has been given under this Act (including any consent granted by order under section 3).

- (3) In this section “protected monument” means any scheduled monument and any monument under the ownership or guardianship of the Secretary of State [<sup>F91</sup>or the Commission] or a local authority by virtue of this Act.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or both; or

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

#### Textual Amendments

**F91** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 50](#)

#### Modifications etc. (not altering text)

**C16** S. 28 excluded (18.12.1996) by [1996 c. 61, s. 12, Sch. 7 para. 4\(9\)](#)

## 29 Compensation orders for damage to monuments under guardianship in England and Wales.

Where the owner or any other person is convicted of an offence involving damage to a monument situated in England and Wales which was at the time of the offence under the guardianship of the Secretary of State [<sup>F92</sup>or the Commission] or any local authority by virtue of this Act, any compensation order made under [<sup>F93</sup>section 130 of the Powers of Criminal Courts (Sentencing) Act 2000] (compensation orders against convicted persons) in respect of that damage shall be made in favour of the Secretary of State or [<sup>F94</sup>the Commission or the local authority in question (as the case may require)].

#### Textual Amendments

**F92** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 51](#)

**F93** Words in s. 29 substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 9 para. 59](#) (with ss. 58, 62, 75)

**F94** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 51](#)

## 30 Disposal of land acquired under Part I.

- (1) Subject to the following provisions of this section, the Secretary of State [<sup>F95</sup>or the Commission] or any local authority may dispose of any land acquired by them under section 10, 11 or 21 of this Act.

[<sup>F96</sup>(1A) The Secretary of State shall consult with the Commission before disposing of any land situated in England under this section.

- (1B) The Commission shall consult with the Secretary of State before disposing of any land under this section.]

- (2) A local authority shall consult with the Secretary of State before disposing of any land under this section.

- (3) Subject to subsection (4) below, where the land in question is or includes a monument, the Secretary of State or [<sup>F97</sup>the Commission or the local authority (as the case may be)] may only dispose of it on such terms as will in their opinion ensure the preservation of the monument.

- (4) Subsection (3) above does not apply in any case where the Secretary of State or [<sup>F97</sup>the Commission or the local authority (as the case may be)] are satisfied that it is no longer practicable to preserve the monument (whether because of the cost of preserving it or otherwise).

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F95** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 52\(2\)](#)
- F96** [S. 30\(1A\)\(1B\)](#) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 52\(3\)](#)
- F97** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 52\(4\)](#)

### 31 Voluntary contributions towards expenditure under Part I.

The Secretary of State or any local authority may receive voluntary contributions for or towards the cost of any expenditure incurred by them under this Part of this Act (whether in relation to any particular monument or land or otherwise).

### 32 Interpretation of Part I.

- (1) In this Part of this Act “maintenance” and “maintain” have the meanings given by section 13(7) of this Act, and expressions to which a meaning is given for the purposes of <sup>[F98]</sup>the Town and Country Planning Act 1990 or the Planning (Listed Buildings and Conservation Areas) Act 1990] or (as regards Scotland) for the purposes of <sup>[F99]</sup>the Town and Country Planning (Scotland) Act 1997 or the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997] have the same meaning as in <sup>[F98]</sup>the said Acts of 1990] or (as the case may require) as in <sup>[F99]</sup>the said Acts of 1997].
- (2) References in this Part of this Act to a monument, in relation to the acquisition or transfer of any monument (whether under a power conferred by this Part of this Act or otherwise), include references to any interest in or right over the monument.
- (3) For the purposes of this Part of this Act the Secretary of State <sup>[F100]</sup>or the Commission] or a local authority are the owners of a monument by virtue of this Act if the Secretary of State or <sup>[F101]</sup>the Commission or the local authority (as the case be)] have acquired it under section 10, 11 or 21 of this Act.

#### Textual Amendments

- F98** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 43\(1\)](#)
- F99** Words in [s. 32\(1\)](#) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6, [Sch. 2 para. 29\(1\)\(a\)](#).
- F100** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 53](#)
- F101** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 53](#)

**Status:**

Point in time view as at 28/11/2004.

**Changes to legislation:**

Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.