Ancient Monuments and Archaeological Areas Act 1979

1979 CHAPTER 46

PART I

ANCIENT MONUMENTS

Miscellaneous and supplemental

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

(1) **[**[F1]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) **[**[F1]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 **[**[F2]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.

[[F2](a) at the request of the owner undertake, or assist in, or

(b) defray or contribute towards the cost of,

the preservation, maintenance and management of any ancient monument. **]]**

(3) **[**[F1]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.

[[F3](3A) As respects a monument situated in England, subsections (1) to (3) above shall apply as if "Commission" were substituted for "Secretary of State".

[F4](3AA) **[** The reference in subsection (3A) above to a monument situated in England includes any monument situated in, on or under the seabed within the seaward limits of

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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 **[**[F5]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.

[[F5](a) at the request of the owner undertake, or assist in, or

(b) 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 **[**[F6]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

F1 Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 48(2)**

F2 Words in s. 24(2) substituted (S.) (30.6.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 9(a)**, 33(2); S.S.I. 2011/174, art. 2, Sch.

F3 S. 24(3A)(3B) inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 48(3)**

F4 S. 24(3AA) inserted (1.7.2002) by National Heritage Act 2002 (c. 14), ss. {2(3)}, 8(2)

F5 Words in s. 24(4) substituted (S.) (30.6.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 9(b)**, 33(2); S.S.I. 2011/174, art. 2, Sch.

F6 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) **[**[F7]Subject to subsection (3A) below**][**[F8]The Secretary of State**][**[F8]Historic Environment Scotland**]** may give advice with reference to the treatment of any ancient monument.

(2) **[**[F7]Subject to subsection (3A) below**][**[F9]The Secretary of State**][**[F9]Historic Environment Scotland**]**may also, if in **[**[F10]his**][**[F10]its**]** 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 **[**[F10]his**][**[F10]its**]** opinion it is advisable.

(3) **[**[F7]Subject to subsection (3A) below**][**[F11]The Secretary of State**][**[F11]Historic Environment Scotland**]** may make a charge for giving advice and superintendence under this section or may give it free of charge, as **[**[F12]he**][**[F12]it**]** thinks fit.

[[F13](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".

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(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

F7 Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 49(2)(4)(5)**

F8 Words in s. 25(1) substituted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 42(a)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F9 Words in s. 25(2) substituted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 42(b)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F10 Word in s. 25(2) substituted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 42(b)(ii)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F11 Words in s. 25(3) substituted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 42(c)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F12 Word in s. 25(3) substituted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 42(c)(ii)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F13 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)

C1 S. 25(2) restricted (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 4(8)(a)**

C2 S. 25(2) restricted (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 9 para. 4(8)(a)**

C3 S. 25(3) excluded (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 4(8)(b)**

C4 S. 25(3) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 9 para. 4(8)(b)**

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

(1) A person duly authorised in writing by **[**[F14]the Secretary of State**][**[F14]Historic Environment Scotland**]** may at any reasonable time enter any land in, on or under which **[**[F14]the Secretary of State**][**[F14]Historic Environment Scotland**]** 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) **[**[F15]Subject to subsection (4) below,**]** 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.

[[F16](4) Subsection (3) does not apply where—

(a) land is, or is to be, excavated in exercise of the power conferred by subsection (2); and

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(b) **[**[F17]the Scottish Ministers know or have**][**[F17]Historic Environment Scotland knows or has**]** reason to believe that any ancient monument **[**[F18]they know or believe**][**[F18]it knows or believes**]** to be in, on or under that land is or may be at risk of imminent damage or destruction.**]**

Textual Amendments

F14 Words in s. 26(1) substituted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 43(a)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F15 Words in s. 26(3) inserted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 10(a)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

F16 S. 26(4) added (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 10(b)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

F17 Words in s. 26(4)(b) substituted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 43(b)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F18 Words in s. 26(4)(b) substituted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 43(b)(ii)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

Modifications etc. (not altering text)

C5 S. 26 restricted (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 4(3)**

C6 S. 26 restricted (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 9 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 [M1]Land Compensation Act 1961 or, in relation to land in Scotland, the rules set out in section 12 of the [M2]Land Compensation (Scotland) Act 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.

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Marginal Citations

M1 1961 c. 33.

M2 1963 c. 51.

28 Offence of damaging certain ancient monuments.

(1) A person who without **[**[F19]lawful**][**[F19]reasonable**]** excuse destroys or damages any protected monument **[**[F20]shall be guilty of an offence if the person**]**—

(a) **[**[F21]knowing that it is**][**[F21]knew or ought to have known that it was**]** a protected monument; and

(b) **[**[F22]intending**][**[F22]intended**]** to destroy or damage the monument or **[**[F23]being**][**[F23]was**]** reckless as to whether the monument would be destroyed or damaged;

[[F24]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) **[**[F25]or for which development consent has been granted**]**.

(3) In this section "protected monument" means any scheduled monument and any monument under the ownership or guardianship of the Secretary of State **[**[F26]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 **[**[F27]the statutory maximum**][**[F27]£50,000**]** or to imprisonment for a term not exceeding six months or both; or

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

[[F28](5) In determining the amount of any fine to be imposed on a person under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.**]**

Textual Amendments

F19 Word in s. 28(1) substituted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(3)(a)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

F20 Words in s. 28(1) inserted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(3)(b)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

F21 Words in s. 28(1)(a) substituted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(3)(c)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

F22 Word in s. 28(1)(b) substituted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(3)(d)(i)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

F23 Word in s. 28(1)(b) substituted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(3)(d)(ii)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

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F24 Words in s. 28(1) repealed (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(3)(e)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

F25 Words in s. 28(2) inserted (1.3.2010) by Planning Act 2008 (c. 29), s. 241(8), **Sch. 2 para. 18** (with s. 226); S.I. 2010/101, art. 2 (with art. 6)

F26 Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 50**

F27 Words in s. 28(4) substituted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 4(3)(a)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

F28 S. 28(5) added (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 4(3)(b)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

Modifications etc. (not altering text)

C7 S. 28 excluded (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 4(9)**

C8 S. 28 excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 9 para. 4(9)**

C9 S. 28(1) savings for effects of 2011 asp 3 s. 3(3) (S.) (1.12.2011) by The Historic Environment (Amendment) (Scotland) Act 2011 (Saving, Transitional and Consequential Provisions) Order 2011 (S.S.I. 2011/377), arts. 1(1), **2(b)**

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 **[**[F29]or the Commission**]** or any local authority by virtue of this Act, any compensation order made under **[**[F30]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 **[**[F31]the Commission or the local authority in question (as the case may require)**]**.

Textual Amendments

F29 Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 51**

F30 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)

F31 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 **[**[F32]or the Commission**]** or any local authority may dispose of any land acquired by them under section 10, 11 or 21 of this Act.

[[F33](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 **[**[F34]the Commission or the local authority (as the case may be)**]**

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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 **[**[F34]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).

Textual Amendments

F32 Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 52(2)**

F33 S. 30(1A)(1B) inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 52(3)**

F34 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 **[**[F35], Historic Environment Scotland**]** 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).

Textual Amendments

F35 Words in s. 31 inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 44** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

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 **[**[F36]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 **[**[F37]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 **[**[F36]the said Acts of 1990**]** or (as the case may require) as in **[**[F37]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 **[**[F38]or the Commission**]** or a local authority are the owners of a monument by virtue of this Act if the Secretary of State or **[**[F39]the Commission or the local authority (as the case be)**]** have acquired it under section 10, 11 or 21 of this Act.

Textual Amendments

F36 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 43(1)**

F37 Words in s. 32(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6, **Sch. 2 para. 29(1)(a)**.

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F38 Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 53**

F39 Words substituted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 53**

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