



Ancient Monuments and Archaeological Areas Act 1979

1979 CHAPTER 46

PART I

ANCIENT MONUMENTS

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 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 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.
- (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).
- (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 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.
- (7) 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.
- (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
 - (b) of any matters purporting to be reproduced in the list from the entries in the Schedule relating to the monuments listed.
- (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.

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 the Secretary of State or a person authorised by the Secretary of State 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.
- (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.

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.
- (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, unless the to any scheduled monument specified in the direction, and may withdraw any direction given under this subsection.
- (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.
- (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.

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.
- (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.

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—
- (a) any compensation order previously made in respect of that damage under section 35 of the Powers of Criminal Courts Act 1973 (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.

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.
- (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

Status: This is the original version (as it was originally enacted).

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.

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

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 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.

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.

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.
- (2) This section does not apply in any case unless—
 - (a) the compensation paid exceeded £20 ; and
 - (b) the Secretary of State has caused notice of the payment of compensation to be deposited with the local authority of each area (in Scotland) or with the council of each district or London borough (in England and Wales) in which the monument in question 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.
- (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.

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 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.

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 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.