

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 08 April 2024. 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) View outstanding changes

SCHEDULES

SCHEDULE 1

CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS

PART I

APPLICATIONS FOR SCHEDULED MONUMENT CONSENT

- 1 (1) Provision may be made by regulations under this Act with respect to the form and manner in which applications for scheduled monument consent are to be made, the particulars to be included therein and the information to be provided by applicants or (as the case may be) by [^{F1}the Secretary of State][^{F1}Historic Environment Scotland] in connection therewith.
- [^{F2}(1A) The Scottish Ministers may by regulations make provision as to—
- (a) the manner in which scheduled monument consent is to be granted;
 - (b) the form and content of scheduled monument consent.]
- (2) Any scheduled monument consent (including scheduled monument consent granted by order under section 3 of this Act) shall (except so far as it otherwise provides) enure for the benefit of the monument and of all persons for the time being interested therein.
- [^{F3}(3) The Welsh Ministers may by regulations make provision as to cases in which an applicant for scheduled monument consent in relation to a monument situated in Wales may make the application otherwise than in the form provided for under subparagraph (1); and such provision may confer a discretion on the Welsh Ministers.]

Textual Amendments

- F1** Words in Sch. 1 para. 1(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. 14(2)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F2** Sch. 1 para. 1(1A) inserted (S.) (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 15(2)**, 33(2); S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.
- F3** Sch. 1 para. 1(3) inserted (E.W.) (21.3.2016 for specified purposes, 31.5.2017 in so far as not already in force) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 5(2)**, 41(1)(c)(3); S.I. 2017/633, art. 5(b)

Modifications etc. (not altering text)

- C1** Sch. 1 para. 1 savings for effects of 2014 asp 19, Sch. 2 para. 14 (S.) (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), arts. 1(1), 6

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- 2 (1) [^{F4}^{F5}Historic Environment Scotland] may refuse to entertain an application for scheduled monument consent unless it is accompanied by a certificate as to the interests in the monument to which the application relates.]
- [^{F4}(2) [^{F4}The Scottish Ministers may by regulations—
- (a) make provision as to the notice of any application for scheduled monument consent to be given to any person (other than the applicant) who, at the beginning of the period of 21 days ending with the date of the application, was the owner of the monument;
 - (b) make provision for publicising applications for scheduled monument consent;
 - (c) make provision as to—
 - (i) the form and content of certificates such as are mentioned in sub-paragraph (1) and notices such as are mentioned in paragraph (a);
 - (ii) service of such notices;
 - (d) make provision as to such further particulars of the matters to which such certificates relate as may be prescribed;
 - (e) require an applicant for scheduled monument consent to certify, in such form as may be prescribed, or to provide evidence, that any requirements of the regulations have been satisfied.
- (2A) Regulations under sub-paragraph (2) may make different provision for different classes of case.]
- (3) Regulations made for the purposes of this paragraph may make provision as to who, in the case of any monument, is to be treated as the owner for those purposes.
- (4) If any person issues a certificate which purports to comply with the requirements of this paragraph [^{F6}or of regulations made by the Welsh Ministers under it][^{F7}or regulations made under it] and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding [^{F8}level 3 on the standard scale].

Textual Amendments

- F4** Sch. 1 para. 2(1)-(2A) substituted for Sch. 1 para. 2(1)(2) (S.) (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 15(3)(a)**, 33(2); S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.; S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.
- F5** Words in Sch. 1 para. 2(1) substituted (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. 14(3)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F6** Words in Sch. 1 para. 2(4) inserted (E.W.) (21.5.2016) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), **ss. 7, 41(2)**
- F7** Words in Sch. 1 para. 1(4) inserted (S.) (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 15(3)(b)**, 33(2); S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.
- F8** 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**)

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Modifications etc. (not altering text)

- C2** Sch. 1 para. 2 modified (1.1.1993) by S.I. 1992/3138, reg. 4(2), **Sch. 2 para. 1**.
- C3** Sch. 1 para. 2 modified (S.) (28.12.2007) by The Transport and Works (Scotland) Act 2007 (Consents under Enactments) Regulations 2007 (S.S.I. 2007/569), regs. 1, **6(2)**
- C4** Sch. 1 para. 2 savings for effects of 2014 asp 19, Sch. 2 para. 14 (S.) (1.10.2015) by The Historic Environment Scotland Act 2014 (Saving, Transitional and Consequential Provisions) Order 2015 (S.S.I. 2015/239), arts. 1(1), **6**
- C5** Sch. 1 para. 2(1)(2) savings for effects of 2011 asp 3 s. 15(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), **3**
- C6** Words in Sch. 1 para. 1(4) inserted (S.) (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 15(3)(b), 33(2)**; S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.

[^{F9}2A As soon as practicable after receiving an application for scheduled monument consent in relation to a monument situated in England, the Secretary of State shall send a copy of the application to the Commission.]

Textual Amendments

- F9** Para. 2A inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 68(2)**

[^{F10}2B (1) The Welsh Ministers may refuse to entertain an application for scheduled monument consent if—

- (a) within the period of 2 years ending with the date on which the application is received, the Welsh Ministers have refused a similar application; and
- (b) in their opinion, there has been no significant change in any material considerations since the similar application was refused.

(2) The Welsh Ministers may refuse to entertain an application for scheduled monument consent if the application is made at a time when a similar application is under consideration.

(3) For the purposes of this paragraph, an application for scheduled monument consent is to be taken to be similar to another such application only if the works to which the applications relate are, in the Welsh Ministers' opinion, the same or substantially the same.]

[^{F11}2C (1) If Historic Environment Scotland, on an application to it for scheduled monument consent, intends to grant that consent, it must, where sub-paragraph (2) applies, first notify the Scottish Ministers of the application.

(2) This sub-paragraph applies where—

- (a) regulations, or
- (b) directions given to Historic Environment Scotland by the Scottish Ministers, provide that the application must be so notified.

(3) The Scottish Ministers may within the period of 28 days beginning with the date of the notification—

- (a) direct the reference of the application to them under section 3B, or
- (b) give notice to Historic Environment Scotland that they require further time in which to consider whether to require such a reference.

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- (4) Historic Environment Scotland must not grant scheduled monument consent until—
- (a) the period mentioned in sub-paragraph (3) has expired without the Scottish Ministers directing the reference of the application to them or giving notice under paragraph (b) of that sub-paragraph, or
 - (b) the Scottish Ministers have notified Historic Environment Scotland that they do not intend to require the reference of the application.

Textual Amendments

F11 Sch. 1 paras. 2C, 2D 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. 14(5)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

- 2D The Scottish Ministers may give directions to Historic Environment Scotland requiring it, in such cases or classes of case as may be specified in the directions, to notify to Ministers and to such other persons as may be so specified—
- (a) any applications made to it for scheduled monument consent, and
 - (b) the decisions taken on those applications.]

Textual Amendments

F11 Sch. 1 paras. 2C, 2D 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. 14(5)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

- 3 (1) The Secretary of State [^{F12}or Historic Environment Scotland] may grant scheduled monument consent in respect of all or any part of the works to which an application for scheduled monument consent relates.
- [^{F13}(2) [^{F13}The Scottish Ministers may by regulations make provision for the procedure to be followed by Historic Environment Scotland in considering and determining applications for scheduled monument consent.]
- [^{F18}(5) This paragraph does not apply to applications for scheduled monument consent in respect of works to a scheduled monument situated in Wales.]

Textual Amendments

F12 Words in Sch. 1 para. 3(1) 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. 14(6)(a)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F13 Sch. 1 para. 3(2) substituted for Sch. 1 para. 3(2)(3) (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. 14(6)(b)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F14 Para. 3(3)(c) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 68(3)**

F15 Words in Sch. 1 para. 3(4) 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. 14(6)(c)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

F16 Word in Sch. 1 para. 3(4) 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. 14(6)(c)(ii)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

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F17 Words in Sch. 1 para. 3(4) repealed (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. 14\(6\)\(c\) \(iii\)](#) (with [ss. 29, 30](#)); [S.S.I. 2015/31](#), art. 2, [sch.](#); [S.S.I. 2015/196](#), art. 2, [sch.](#)

F18 Sch. 1 para. 3(5) inserted (E.W.) (21.5.2016) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), [ss. 9\(1\), 41\(2\)](#)

Modifications etc. (not altering text)

C7 Sch. 1 para. 3 savings for effects of 2014 asp 19, Sch. 2 para. 14 (S.) (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), arts. 1(1), [6](#)

[^{F19}3A (1) This paragraph applies to applications for scheduled monument consent in respect of works to a scheduled monument situated in Wales.

(2) The Welsh Ministers may grant scheduled monument consent in respect of all or any part of the works to which an application relates.

(3) Before determining whether or not to grant scheduled monument consent on an application, the Welsh Ministers may—

- (a) cause a public local inquiry to be held; or
- (b) afford to the applicant, and to any other person to whom it appears to the Welsh Ministers expedient to do so—
 - (i) an opportunity to appear before and be heard by a person appointed by the Welsh Ministers for that purpose; or
 - (ii) an opportunity to make representations to a person appointed by the Welsh Ministers for that purpose.

(4) Before determining whether or not to grant scheduled monument consent on an application, the Welsh Ministers—

- (a) must, in every case, consider any representations made by any person with respect to that application; and
- (b) must also, if an inquiry or hearing has been held or representations have been made in accordance with sub-paragraph (3), consider the report of the person who held the inquiry or hearing or to whom the representations were made.

(5) The Welsh Ministers must serve notice of their decision with respect to the application on the applicant and on every person who has made representations with respect to the application.]

Textual Amendments

F19 Sch. 1 para. 3A inserted (E.W.) (21.5.2016) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#), [ss. 9\(2\), 41\(2\)](#)

4 [^{F20}(1) Subsections (2) to (5) of section 250 of the ^{M1}Local Government Act 1972 (evidence and costs at local inquiries) shall apply to a public local inquiry held in pursuance of paragraph 3(2) above in relation to a monument situated in England and Wales as they apply where a Minister or the Secretary of State causes an inquiry to be held under subsection (1) of that section.

(2) Subsections (2) to (8) of section 210 of the ^{M2}Local Government (Scotland) Act 1973 (evidence and expenses at local inquiries) shall apply to a public local inquiry held in pursuance of paragraph 3(2) above in relation to a monument situated in Scotland

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as they apply where a Minister or the Secretary of State causes an inquiry to be held under subsection (1) of that section.]

Textual Amendments

F20 Sch. 1 para. 4 repealed (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. 14(7)** (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)

C8 Sch. 1 para. 4 savings for effects of 2014 asp 19, Sch. 2 para. 14 (S.) (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), arts. 1(1), **6**

Marginal Citations

M1 1972 c. 70.

M2 1973 c. 65.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3A) inserted by [2023 asc 3 Sch. 13 para. 20\(b\)](#)
- s. 1AA-1AE omitted by [2023 asc 3 Sch. 13 para. 21](#)
- s. 7(4A) inserted by [2016 anaw 4 s. 10\(2\)](#)
- s. 33(1A) inserted by [2023 asc 3 Sch. 13 para. 35\(a\)](#)