



# Ancient Monuments and Archaeological Areas Act 1979

## 1979 CHAPTER 46

### PART I

#### ANCIENT MONUMENTS

##### *[<sup>F1</sup>Scheduled monument enforcement notices*

#### **[<sup>F1</sup>9D Execution of works required by scheduled monument enforcement notice**

- (1) If any steps specified in the scheduled monument enforcement notice have not been taken within the period for compliance with the notice, [<sup>F2</sup>Historic Environment Scotland] may—
  - (a) enter on the land in, on or under which the scheduled monument is situated and take those steps, and
  - (b) recover from the person who is then the owner or lessee of the monument or land any expenses reasonably incurred by [<sup>F3</sup>it] in doing so.
- (2) Where a scheduled monument enforcement notice has been served in respect of a monument—
  - (a) any expenses incurred by the owner, lessee or occupier of a monument or the land in, on or under which it is situated for the purpose of complying with it, and
  - (b) any sums paid by the owner or lessee of a monument or land under subsection (1) in respect of expenses incurred by [<sup>F4</sup>Historic Environment Scotland in taking steps required by the notice] ,are to be treated as incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (3) If on a complaint by the owner of any scheduled monument or land it appears to the sheriff that the occupier of the monument or land is preventing the owner from carrying

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out work required to be carried out by a scheduled monument enforcement notice, the sheriff may by warrant authorise the owner to enter the land and carry out the work.

- (4) If [<sup>F5</sup>Historic Environment Scotland takes] steps under subsection (1) [<sup>F6</sup>it] may sell any materials removed by [<sup>F7</sup>it] from the monument or land unless those materials are claimed by the owner within 3 days of their removal.
- (5) After selling the materials [<sup>F8</sup>Historic Environment Scotland] must pay the proceeds to the owner less the expenses recoverable by [<sup>F9</sup>it] from the owner.
- (6) Where [<sup>F10</sup>Historic Environment Scotland seeks] , under subsection (1), to recover any expenses from a person on the basis that the person is the owner of the scheduled monument or land, and the person proves that—
- (a) the person is receiving the rent in respect of the monument or land merely as trustee, tutor, curator, factor or agent of some other person, and
  - (b) the person has not, and since the date of the service of the demand for payment has not had, in the person's hands on behalf of that other person sufficient money to discharge the whole demand of [<sup>F11</sup>Historic Environment Scotland] ,
- the person's liability is limited to the total amount of the money which the person has or has had in the person's hands on behalf of that other person.
- (7) If by reason of subsection (6) [<sup>F12</sup>Historic Environment Scotland has] not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent [<sup>F13</sup>it] may recover any unpaid balance from the person on whose behalf the rent is received.
- (8) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

### Textual Amendments

- F1** Ss. 9A-9O and cross-heading 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. 6(1)**, 33(2); [S.S.I. 2011/174](#), art. 2, Sch.; [S.S.I. 2011/372](#), art. 2, Sch.
- F2** Words in s. 9D(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. 21(a)(i)** (with ss. 29, 30); [S.S.I. 2015/31](#), art. 2, sch.; [S.S.I. 2015/196](#), art. 2, sch.
- F3** Word in s. 9D(1)(b) 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. 21(a)(ii)** (with ss. 29, 30); [S.S.I. 2015/31](#), art. 2, sch.; [S.S.I. 2015/196](#), art. 2, sch.
- F4** Words in s. 9D(2)(b) 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. 21(b)** (with ss. 29, 30); [S.S.I. 2015/31](#), art. 2, sch.; [S.S.I. 2015/196](#), art. 2, sch.
- F5** Words in s. 9D(4) 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. 21(c)(i)** (with ss. 29, 30); [S.S.I. 2015/31](#), art. 2, sch.; [S.S.I. 2015/196](#), art. 2, sch.
- F6** Word in s. 9D(4) 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. 21(c)(ii)** (with ss. 29, 30); [S.S.I. 2015/31](#), art. 2, sch.; [S.S.I. 2015/196](#), art. 2, sch.
- F7** Word in s. 9D(4) 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. 21(c)(iii)** (with ss. 29, 30); [S.S.I. 2015/31](#), art. 2, sch.; [S.S.I. 2015/196](#), art. 2, sch.

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- F8** Words in s. 9D(5) 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. 21\(d\)\(i\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F9** Word in s. 9D(5) 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. 21\(d\)\(ii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F10** Words in s. 9D(6) 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. 21\(e\)\(i\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F11** Words in s. 9D(6)(b) 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. 21\(e\)\(ii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F12** Words in s. 9D(7) 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. 21\(f\)\(i\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F13** Word in s. 9D(7) 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. 21\(f\)\(ii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

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

- C1** S. 9D savings for effects of 2014 asp 19, Sch. 2 para. 21 (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), [8](#)

**Changes to legislation:**

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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\(a\)](#)