

SCHEDULE

Section 11.

PROCEDURE FOR MAKING PRESERVATION ORDERS

- 1 Before making a preservation order in relation to any monument, the Minister shall—
 - (a) cause a draft of the proposed order to be published in the London Gazette;
 - (b) send a copy of the draft to each local authority in whose area the monument is;
 - (c) publish in two successive weeks in one or more newspapers circulating in the locality where the monument is a notice stating that the order is proposed to be made and the effect of the order and specifying the time (not being less than twenty-eight days from the first publication of the notice in such a newspaper) within which and the manner in which objections to the proposed order can be made;
 - (d) serve on the owner of the monument and (if the owner is not the occupier) on the occupier of the monument a copy of the draft of the proposed order, together with a notice stating the effect thereof and specifying the time (not being less than twenty-eight days from the service of the notice) within which and the manner in which objections to the proposed order can be made;
 - (e) cause a copy of the draft of the proposed order to be fixed on some conspicuous part of the monument.
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 - (1) If no objection is duly made by the owner or occupier of the monument or any other person appearing to the Minister to have an interest in the monument, or if all objections so made are withdrawn, the Minister may make the order either in the terms of the draft or with modifications thereof.
 - (2) If any objection duly made as aforesaid is not withdrawn, the Minister shall, before making the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may make the order either in the terms of the draft or with modifications thereof.
 - (3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the Minister shall afford to each local authority in whose area the monument is, and to any other person to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.
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 - (1) Where the Minister makes a preservation order, and an objection duly made by the owner or occupier of the monument or any person appearing to the Minister to have an interest in the monument has not been withdrawn before the order is made, the order shall be subject to special parliamentary procedure.
 - (2) As soon as may be after the order has been made, the Minister shall publish in the London Gazette and in one or more local newspapers circulating in the locality in which the monument is a notice stating that the order has been made and the effect thereof and whether or not it is subject to special parliamentary procedure, and shall serve a like notice and a copy of the order on every person on whom a copy of the draft order was required to be served under paragraph 1 of this Schedule and on any

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other person appearing to the Minister to have an interest in the monument who duly made an objection which has not been withdrawn, and the order—

- (a) if it is not subject to parliamentary procedure, shall come into operation on the date on which the notice was first published as aforesaid;
- (b) if it is subject to parliamentary procedure, shall come into operation in accordance with the Statutory Orders (Special Procedure) Act, 1945.

(3) The Minister shall also, as soon as may be after the order has been made, cause a copy of the order to be fixed on some conspicuous part of the monument.

- 4 (1) Except in Scotland, subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence at and the defraying of costs of inquiries) shall apply to a public local inquiry held in pursuance of this Schedule as they apply to the inquiries mentioned in subsection (1) of the said section two hundred and ninety:

Provided that subsection (4) of that section (which requires the costs of the department holding the inquiry to be defrayed by the parties thereto) shall not apply except in so far as the Minister is of opinion, having regard to the object and result of the inquiry, that the Minister's costs should be defrayed by any party thereto.

(2) In Scotland, subsections (2) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947 (which relate to the procedure for holding local inquiries) shall apply to a public local inquiry held in pursuance of this Schedule as they apply to the inquiries mentioned in subsection (1) of the said section three hundred and fifty-five:

Provided that, if the Minister so directs, the public local inquiry held in pursuance of this Schedule shall be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where a direction is so given—

- (a) it shall be deemed to have been so given under section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945;
- (b) if paragraph 1 of this Schedule has been complied with as respects the publication of the draft order, the provisions of subsection (1) of the said section two with regard to advertisement of notice shall be deemed to have been complied with; and
- (c) the said provisions of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947, shall not apply to such inquiry.

- 5 (1) If any person aggrieved by a preservation order desires to question the validity thereof on the ground that any requirement of this Act has not been complied with in relation to the order, he may, within six weeks from the date on which the order comes into operation, make an application to the High Court, and on any such application the Court, if satisfied that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement, may quash the order or any provision contained therein.

(2) Subject to the provisions of the preceding sub-paragraph, a preservation order shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever.

(3) This paragraph shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, or under subsection (4) of section two of that Act, as read with section ten thereof.

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- (4) References in this paragraph to the High Court shall, as respects a preservation order relating to a monument in Scotland, be construed as references to the Court of Session.
- 6 References in this Schedule to the London Gazette shall, in a case where the preservation order relates to a monument in Scotland, be construed as references to the Edinburgh Gazette.

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Summary Jurisdiction (Scotland) Act, 1908	8 Edw. 7. c. 65.
Ancient Monuments Consolidation and Amendment Act, 1913	3 & 4 Geo. 5. c. 32.
Acquisition of Land (Assessment of Compensation) Act, 1919	9 & 10 Geo. 5. c. 57.
Trusts (Scotland) Act, 1921	11 & 12 Geo. 5. c. 58.
Land Charges Act, 1925	15 & 16 Geo. 5. c. 22.
Ancient Monuments Act, 1931	21 & 22 Geo. 5. c. 16.
Local Government Act, 1933	23 & 24 Geo. 5. c. 51.
Private Legislation Procedure (Scotland) Act, 1936	26 Geo. 5. & 1 Edw. 8. c. 52.
Statutory Orders (Special Procedure) Act, 1945	9 & 10 Geo. 6. c. 18.
Acquisition of Land (Authorisation Procedure) Act, 1946	9 & 10 Geo. 6. c. 49.
Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947	10 & 11 Geo. 6. c. 42.
Local Government (Scotland) Act, 1947	10 & 11 Geo. 6. c. 43.
Town and Country Planning Act, 1947	10 & 11 Geo. 6. c. 51.
Town and Country Planning (Scotland) Act, 1947	10 & 11 Geo. 6. c. 53.
Lands Tribunal Act, 1949	12, 13 & 14 Geo. 6. c. 42.
Magistrates' Courts Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.