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STATUTORY INSTRUMENTS

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**1994 No. 1381**

**ANCIENT MONUMENTS**

**The Ancient Monuments (Class Consents) Order 1994**

<i>Made</i>	- - - -	<i>19th May 1994</i>
<i>Laid before Parliament</i>		<i>24th May 1994</i>
<i>Coming into force</i>	- -	<i>14th June 1994</i>

The Secretary of State, after consultation with the Historic Buildings and Monuments Commission for England, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 2, 3 and 60 of the Ancient Monuments and Archaeological Areas Act 1979<sup>(1)</sup>, and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation, commencement, interpretation and extent**

1.—(1) This Order may be cited as the Ancient Monuments (Class Consents) Order 1994 and shall come into force on 14th June 1994.

(2) In this Order, unless the context otherwise requires—

“the Act” means the Ancient Monuments and Archaeological Areas Act 1979;

“carried out lawfully” means carried out in accordance with the terms of a consent granted by order under section 3 of the Act, or which would have been so carried out if during the period in question the monument had been a scheduled monument;

“the Commission” means the Historic Buildings and Monuments Commission for England;

“consent” means scheduled monument consent;

“domestic gardening works” includes works carried out in the non-commercial cultivation of allotments;

“horticultural works” includes domestic gardening works; and

“ploughed land” means land on which ploughing has been carried out lawfully within the period of six years immediately preceding the works in question.

(3) This Order applies to England and Wales.

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(1) 1979 c. 46; sections 2 and 3 were amended by the National Heritage Act 1983 (c. 47), Schedule 4, paragraphs 27 and 28.

### **Scheduled monument consent granted by this Order**

2.—(1) Subject to the provisions of this article, consent is hereby granted under section 3 of the Act for the execution of works of any class or description specified as permitted works in the Schedule to this Order.

(2) The consent granted is subject to any condition specified in the said Schedule in relation to works of a particular class or description.

(3) Nothing in this article shall operate so as to grant consent contrary to any limitation or condition specified in a consent granted under Part I of the Act otherwise than by this Order.

### **Revocation and saving**

3.—(1) Subject to the provisions of this article, the Ancient Monuments (Class Consents) Order 1981<sup>(2)</sup> (“the 1981 Order”) and the Ancient Monuments (Class Consents) (Amendment) Order 1984<sup>(3)</sup> (“the 1984 Order”) are hereby revoked.

(2) The 1981 Order and the 1984 Order shall continue to be effective in respect of works commenced before this Order comes into force and any limitation or condition specified in this Order shall be disregarded in the application of article 2(3) of the 1981 Order. Peter Brooke Secretary of State for National Heritage 18th May 1994

Signed by authority of the Secretary of State for Wales

19th May 1994

*Wyn Roberts*  
Minister of State, Welsh Office

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(2) [S.I.1981/1302](#).  
(3) [S.I.1984/222](#).

SCHEDULE

Article 2(1) and (2)

CLASSES OR DESCRIPTIONS OF WORKS FOR THE EXECUTION OF WHICH SCHEDULED MONUMENT CONSENT IS GRANTED BY ARTICLE 2 OF THIS ORDER

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**CLASS 1. AGRICULTURAL, HORTICULTURAL AND FORESTRY WORKS**

Permitted works: Agricultural, horticultural and forestry works of the same kind as those previously carried out lawfully in the same location and on the same spot within that location within the period of six years immediately preceding the date on which the works commence; but excluding works falling into one or more of the following categories—

Works not permitted:

- (a) in the case of ploughed land, any works likely to disturb the soil of any part of that land below the depth at which ploughing of that part has previously been carried out lawfully;
- (b) in the case of land other than ploughed land, any works likely to disturb the soil below the depth of 300 millimetres;
- (c) sub-soiling, drainage works, the planting or uprooting of trees, hedges or shrubs, the stripping of top soil, tipping operations, or the commercial cutting and removal of turf;
- (d) the demolition, removal, extension, alteration or disturbance of any building, structure or work or of the remains thereof;
- (e) the erection of any building or structure;
- (f) in the case of works other than domestic gardening works, the laying of paths, hard-standings or foundations for buildings or the erection of fences or other barriers.

**CLASS 2. WORKS BY BRITISH COAL CORPORATION OR THEIR LICENSEES**

Permitted works: Works executed more than 10 metres below ground level by the British Coal Corporation, or any person acting pursuant to a licence granted by the Corporation under section 36(2) of the Coal Industry Nationalisation Act 1946(4).

**CLASS 3. WORKS BY BRITISH WATERWAYS BOARD**

Permitted works: Works executed by the British Waterways Board, in relation to land owned or occupied by them, being works of repair or maintenance,

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(4) 1946 c. 59; section 36(2) was amended by the Opencast Coal Act 1958 (c. 69), section 46(1); the Coal Industry Act 1977 (c. 39), Schedule 4, paragraph 1(5) and the Coal Industry Act 1987 (c. 3), section 1(2) and Schedule 1, paragraph 1.

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not involving a material alteration to a scheduled monument, which are essential for the purpose of ensuring the functioning of a canal.

**CLASS 4. WORKS FOR THE REPAIR OR MAINTENANCE OF MACHINERY**

Permitted works: Works for the repair or maintenance of machinery, being works which do not involve a material alteration to a scheduled monument.

**CLASS 5. WORKS URGENTLY NECESSARY FOR SAFETY OR HEALTH**

Permitted works: Works which are urgently necessary in the interests of safety or health provided that:—

- (a) the works are limited to the minimum measures immediately necessary; and
- (b) notice in writing justifying in detail the need for the works is given to the Secretary of State as soon as reasonably practicable.

**CLASS 6. WORKS BY THE COMMISSION**

Permitted works: Works executed by the Commission.

**CLASS 7. WORKS OF ARCHAEOLOGICAL EVALUATION**

Permitted works: Works of archaeological evaluation carried out by or on behalf of a person who has applied for consent under section 2 of the Act being works carried out—

- (a) in order to supply the Secretary of State with information required by him for the determination of that application;
- (b) under the supervision of a person approved for that purpose in writing by the Secretary of State or the Commission; and
- (c) in accordance with a written specification approved for that purpose by the Secretary of State or the Commission.

**CLASS 8. WORKS CARRIED OUT UNDER CERTAIN AGREEMENTS CONCERNING ANCIENT MONUMENTS**

Permitted works: Works for the maintenance or preservation of a scheduled monument or its amenities being works executed in accordance with the terms of a written agreement between the occupier of the monument and the Secretary of State or the Commission under section 17(5) of the Act.

**CLASS 9. WORKS GRANT AIDED UNDER SECTION 24 OF THE ACT**

Permitted works: Works for the preservation, maintenance or management of a scheduled monument being works executed in accordance with the terms of a written agreement under which the

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(5) Section 17 was amended by the National Heritage Act 1983 (c. 47), Schedule 4, paragraph 43.

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Secretary of State or the Commission defray, or contribute towards, the cost of those works pursuant to their powers under section 24(6) of the Act.

**CLASS 10. WORKS UNDERTAKEN BY THE ROYAL COMMISSION ON THE HISTORICAL MONUMENTS OF ENGLAND OR THE ROYAL COMMISSION ON ANCIENT AND HISTORICAL MONUMENTS OF WALES**

Permitted works:

Works consisting of the placing of survey markers to a depth not exceeding 300 millimetres for the purpose of measured surveying of visible remains undertaken by the Royal Commission on the Historical Monuments of England or by the Royal Commission on Ancient and Historical Monuments of Wales.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, which applies to England and Wales, grants scheduled monument consent under section 3 of the Ancient Monuments and Archaeological Areas Act 1979 (“the Act”) for the execution of certain classes or descriptions of works.

The works for which consent is granted comprise:

- Certain agricultural, horticultural and forestry works of the same kind as those carried out lawfully in the same location and on the same spot within that location during the previous six years. “Carried out lawfully” means “carried out in accordance with the terms of a consent granted by order under section 3 of the Act or which would have been so carried out if during the period in question the monument had been a scheduled monument”. Under the Ancient Monuments (Class Consents) Order 1981 ([S. I.1981/1302](#)) such works could only be lawfully carried out if works of the same kind had previously been executed in the same field or location during the period 9th October 1976 to 8th October 1981.
- Works executed more than 10 metres below ground level by the British Coal Corporation or their licensees.
- Certain works executed by the British Waterways Board.
- Certain works for the repair or maintenance of machinery.
- Minimum works urgently necessary in the interests of safety or health subject to giving subsequent notice in writing as soon as reasonably practicable.
- Works executed by the Historic Buildings and Monuments Commission for England (“the Commission”).

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(6) Section 24 was amended by the National Heritage Act 1983 (c. 47), Schedule 4, paragraph 48.

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- Certain works of archaeological evaluation carried out by or on behalf of an applicant for scheduled monument consent.
- Certain works carried out in accordance with agreements made between the occupier of a scheduled monument and the Secretary of State or the Commission under section 17 of the Act.
- Certain works in respect of which the Secretary of State or the Commission pay grant under section 24 of the Act.
- Certain works undertaken by the Royal Commission on the Historical Monuments of England or by the Royal Commission on Ancient and Historical Monuments of Wales.

Consent under this Order is for the purposes of section 3 of the Act only and does not constitute any consent or authority for any other purpose.

The Ancient Monuments (Class Consents) Order 1981 and the Ancient Monuments (Class Consents) (Amendment) Order 1984 ([S. I.1984/222](#)) are revoked with savings.