

HISTORIC ENVIRONMENT SCOTLAND ACT 2014

EXPLANATORY NOTES

SCHEDULES

Schedule 1 – Historic Environment Scotland

105. This schedule makes provision about the status, membership, procedures and powers relating to Historic Environment Scotland.
106. [Paragraph 1](#) sets out the status of Historic Environment Scotland: it is not a Crown body and therefore does not have any of the special privileges of the Crown. Crown bodies are not, for example, required to obtain formal scheduled monument consent for works to properties in their ownership or care.
107. [Paragraph 2](#) deals with membership arrangements in relation to the Board of Historic Environment Scotland. Sub-paragraph (1) sets out maximum and minimum numbers (which Ministers have a power under sub-paragraph (8) to vary from the 10-15 specified here). All Board members are to be appointed by the Scottish Ministers and must have (sub-paragraph (3)) skills and expertise relevant to the functions of the body. There is no specification of particular fields of expertise, with the expectation being that Ministers will select a balanced board whose members among them combine knowledge of the functional areas with skills and experience suitable for managing a large public body. Sub-paragraph (4) specifies that Ministers must encourage equal opportunities when making appointments to the board. The specific meaning of “equal opportunities” is clarified by sub-paragraph (9). More generally, it is intended to add Historic Environment Scotland to the list of bodies whose appointments are regulated by the Commissioner for Ethical Standards in Public Life in Scotland. In order that the first round of appointments can be regulated and conducted according to the Commissioner’s Code of Practice the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Historic Environment Scotland as Specified Authority) Order 2014 is already in force, meaning that Historic Environment Scotland can be treated as if it were a specified body listed in schedule 2 to the 2003 Act. Sub-paragraph (5) allows Ministers to set the terms and conditions of service of Board members, while sub-paragraph (6) sets out arrangements for members to resign. Sub-paragraph (7) allows for Ministers to reappoint members.
108. [Paragraph 3](#) sets out that members of certain bodies are not eligible to be appointed as Board members, or must cease to be Board members if they attain a place in these bodies. The bodies specified are the House of Commons, the House of Lords, the Scottish Parliament and the European Parliament. The reason for these exclusions is to avoid any perception of conflicts of interest between the legislative role of these bodies and the decision-making role of Historic Environment Scotland.
109. [Paragraph 4](#) sets out the arrangements for removal of members, including insolvency, repeated non-attendance or inability to discharge the duties required of members. These

*These notes relate to the Historic Environment Scotland Act
2014 (asp 19) which received Royal Assent on 9 December 2014*

factors, if they pre-existed, would debar any person from being appointed in the first instance, so only provisions for removal are required in the Act.

110. [Paragraph 5](#) allows for payment of remuneration, allowances and expenses to Board members, with Ministers determining the rates.
111. [Paragraph 6](#) sets out the arrangements for appointment and employment of a person as Chief Executive, with a requirement for Ministerial approval of the Board's chosen candidate. This paragraph also covers arrangements for the employment of staff.
112. [Paragraph 7](#) allows for the payment of pensions, allowances and gratuities by Historic Environment Scotland, with Ministers again determining the rates.
113. [Paragraphs 8 and 9](#) set out the arrangements for the Board's business, including committees, procedure and meetings. Ministers and officials are permitted to attend meetings, but may not vote.
114. [Paragraph 10](#) allows the Board to delegate any of their functions to members, committees or employees, except that the Board cannot delegate the approval of annual reports and accounts.
115. [Paragraph 11](#) allows for proceedings of Historic Environment Scotland to remain valid, even when conducted while the Board or a committee is temporarily short of the minimum specified number of members or if a member of the Board or committee subsequently proves to be ineligible for membership or is disqualified. The normal conduct of Board business would allow the Chair to require any business conducted in such circumstances to be brought back to the Board for review.
116. [Paragraph 12](#) sets out the general powers available to Historic Environment Scotland. Sub-paragraph (1) is a power to do anything related to the exercise of its functions while sub-paragraph (2) sets out a list of particular powers. These powers are intended to give the body a sufficiently wide range of powers to undertake any activity currently in hand at RCAHMS or Historic Scotland or foreseen.
117. [Paragraphs 13 and 14](#) set out requirements in respect of accounts and reports, including for their publication.