

SCHEDULE 2  
FUNCTIONS OF HISTORIC ENVIRONMENT SCOTLAND  
IN RELATION TO SCHEDULED MONUMENTS

**PART 5**

APPEALS AND REFERRALS

**CHAPTER 1**

APPEALS FROM HISTORIC ENVIRONMENT SCOTLAND

*Appeal against inclusion or amendment of entry in Schedule of monuments*

32 After section 1B (publication of the Schedule) (inserted by paragraph 3) insert—

**“1C Appeal against inclusion etc. in Schedule of monuments**

- (1) This section applies where Historic Environment Scotland makes a decision—
  - (a) to include a monument in the Schedule,
  - (b) to amend an entry in the Schedule relating to a monument.
- (2) A person mentioned in subsection (3) may appeal the decision to the Scottish Ministers.
- (3) The person is—
  - (a) the owner of the monument,
  - (b) the tenant of the monument,
  - (c) the occupier of the monument.

**1D Determination of appeals under section 1C**

- (1) The Scottish Ministers may—
  - (a) dismiss an appeal under section 1C,
  - (b) allow such an appeal (in whole or in part).
- (2) Where the Scottish Ministers allow an appeal, they may vary a part of the decision appealed against whether or not the appeal relates to that part of the decision.
- (3) Where the Scottish Ministers allow an appeal, they may direct Historic Environment Scotland to exercise its power under section 1(5) to modify the Schedule to give effect to their decision.
- (4) Except as provided for by section 55, the decision of the Scottish Ministers on an appeal under section 1C is final.

### **1E Procedure for appeals under section 1C**

- (1) The Scottish Ministers may by regulations make provision in connection with appeals under section 1C, including provision about—
  - (a) the grounds on which an appeal may be made,
  - (b) the information that is to be provided to, or may be required by, the Scottish Ministers in connection with the appeal.
- (2) Regulations under subsection (1) may also make provision about the procedure to be followed, including—
  - (a) the form, manner and time for making an appeal,
  - (b) the notification of an appeal,
  - (c) the manner in which an appeal is to be conducted.
- (3) Regulations made by virtue of subsection (2)(c) may also include provision that the manner in which an appeal, or any stage of an appeal, is to be conducted (as for example whether written submissions are to be presented or persons are to be heard) is to be at the discretion of the Scottish Ministers (or of a person appointed by them under this Act).
- (4) Schedule 1A (which makes provision about the determination of certain appeals by a person other than the Scottish Ministers) applies to appeals under section 1C.”