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

PART 7

OTHER MATTERS IN RELATION TO SCHEDULED MONUMENTS

39 The 1979 Act is further amended as follows.

Commencement Information

I1 Sch. 2 para. 39 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I2 Sch. 2 para. 39 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Interdict

40 In section 9O (interdicts restraining unauthorised works on scheduled monuments)—

(a) in subsection (1)—

(i) for "they have exercised or propose to exercise any of their" substitute " Historic Environment Scotland has exercised or proposes to exercise any of its ",

(ii) for "the Scottish Ministers" substitute " it ",

(b) after that subsection insert—

"(1A) Whether or not the Scottish Ministers have exercised or propose to exercise any of their powers under this Act, they may seek to restrain or prevent any actual or apprehended breach of any of the controls provided by or under this Act on the execution of works affecting scheduled monuments by means of an application for interdict.",

(c) in subsection (2) for "subsection (1)" substitute " subsection (1) or (1A) ".

Commencement Information

I3 Sch. 2 para. 40 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I4 Sch. 2 para. 40 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Agreements concerning ancient monuments etc.

41 In section 17 (agreements concerning ancient monuments etc.)—

(a) after subsection (2) insert—

"(2A) Historic Environment Scotland may enter into an agreement under this section with the occupier of an ancient monument situated in Scotland or of any land so situated which adjoins or is in the vicinity of an ancient monument so situated.",

(b) in subsection (4)—

Status: *Point in time view as at 01/10/2015.*
Changes to legislation: *There are currently no known outstanding effects for the Historic Environment Scotland Act 2014, PART 7. (See end of Document for details)*

(i) in paragraph (f) after "authority" insert " or Historic Environment Scotland ",

(ii) in the fullout after "authority" insert " or Historic Environment Scotland ",

(c) after subsection (9) insert—

"(9A) References to an ancient monument in subsection (2A), and in subsection (3) so far as it applies for the purposes of subsection (2A), are to be construed as if the reference in section 61(12)(b) of this Act to the Secretary of State were to Historic Environment Scotland.".

Commencement Information

I5 Sch. 2 para. 41 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I6 Sch. 2 para. 41 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Advice and superintendence

42 In section 25 (advice and superintendence)—

(a) in subsection (1) for "The Secretary of State" substitute " Historic Environment Scotland ",

(b) in subsection (2)—

(i) for "The Secretary of State" substitute " Historic Environment Scotland ",

(ii) for "his" in both places substitute " its ",

(c) in subsection (3)—

(i) for "The Secretary of State" substitute " Historic Environment Scotland ",

(ii) for "he" substitute " it ".

Commencement Information

I7 Sch. 2 para. 42 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I8 Sch. 2 para. 42 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Power of entry: inspection and recording

43 In section 26 (power of entry on land believed to contain an ancient monument)—

(a) in subsection (1) for "the Secretary of State" in both places substitute " Historic Environment Scotland ",

(b) in subsection (4)(b)—

(i) for "the Scottish Ministers know or have" substitute " Historic Environment Scotland knows or has ",

(ii) for "they know or believe" substitute " it knows or believes ".

Commencement Information

I9 Sch. 2 para. 43 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I10 Sch. 2 para. 43 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Power to accept voluntary contributions

44 In section 31 (voluntary contributions towards expenditure under Part 1 of the 1979 Act) after "State" insert " , Historic Environment Scotland ".

Commencement Information

I11 Sch. 2 para. 44 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I12 Sch. 2 para. 44 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Metal detectors

45 In section 42 (restrictions on use of metal detectors)—

(a) in subsection (1) after "consent" insert " of Historic Environment Scotland (in the case of a place situated in Scotland), ",

(b) in subsection (2) in the definition of "protected place", after "State" insert " , Historic Environment Scotland ",

(c) in subsection (3) after "that" insert " of Historic Environment Scotland (where the place in question is situated in Scotland), ",

(d) in subsection (4) after "by" insert " Historic Environment Scotland, ",

(e) in subsection (5)(a) after "by" insert " Historic Environment Scotland, ".

Commencement Information

I13 Sch. 2 para. 45 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I14 Sch. 2 para. 45 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Power of entry: survey and valuation

46 In section 43(2) (power of entry for survey and valuation) after "State" insert " , Historic Environment Scotland ".

Commencement Information

I15 Sch. 2 para. 46 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I16 Sch. 2 para. 46 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Compensation

47 In section 46(1) (compensation for damage caused by exercise of certain powers) after "from" insert " Historic Environment Scotland, ".

Commencement Information

I17 Sch. 2 para. 47 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I18 Sch. 2 para. 47 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Application to Crown land

48 In section 50 (application of Act to Crown land) after subsection (1) insert—

"(1A) For the purposes of subsection (1)(b), anything done by Historic Environment Scotland on Crown land, in relation to which it has functions by virtue of a delegation by the Scottish Ministers under section 3 of the Historic Environment Scotland Act 2014 (asp 19), is not to be treated as done by or on behalf of the Crown.".

Commencement Information

I19 Sch. 2 para. 48 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I20 Sch. 2 para. 48 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Finds

49 In section 54(2) (treatment and preservation of finds) after "State" in both places insert " , Historic Environment Scotland ".

Commencement Information

I21 Sch. 2 para. 49 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I22 Sch. 2 para. 49 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Proceedings questioning certain orders

50 In section 55 (proceedings for questioning validity of certain orders)—

(a) in subsection (1)(b) after "State" insert " or Historic Environment Scotland ",

(b) in subsection (3)—

(i) after first "State" insert " or Historic Environment Scotland ",

(ii) for "either" substitute " any ",

(iii) for paragraph (a) substitute—

"(a) any decision of the Scottish Ministers on an application for scheduled monument consent referred to them under section 3B,

(aa) any decision of the Scottish Ministers on an appeal under this Act,”,

(iv) in paragraph (b) for “the giving by the Secretary of State of any direction under section 4” substitute “ the making by Historic Environment Scotland of any order under section 4 or by the Scottish Ministers of any order under section 4A ”,

(c) in subsection (4)(b) after “State” insert “ or Historic Environment Scotland ”,

(d) in subsection (7) after “State” insert “ or Historic Environment Scotland ”.

Commencement Information

I23 Sch. 2 para. 50 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I24 Sch. 2 para. 50 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Power to require information

51 In section 57(1) (power to require information as to interests in land) after “State” in both places insert “ or Historic Environment Scotland ”.

Commencement Information

I25 Sch. 2 para. 51 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I26 Sch. 2 para. 51 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Interpretation

52 In section 61(9) (meaning of site of monument) after “State” insert “ or Historic Environment Scotland ”.

Commencement Information

I27 Sch. 2 para. 52 in force at 27.2.2015 for specified purposes by S.S.I. 2015/31, art. 2, **Sch.**

I28 Sch. 2 para. 52 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, **Sch.** (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

Status:
Point in time view as at 01/10/2015.

Changes to legislation:
There are currently no known outstanding effects for the Historic Environment Scotland Act 2014, PART 7.