

Draft Order laid before the Scottish Parliament under section 26(3)(c) of the Historic Environment Scotland Act 2014 and section 58(3)(b) of the Regulatory Reform (Scotland) Act 2014 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

**ANCIENT MONUMENTS
REGULATORY REFORM**

**The Historic Environment Scotland Act
2014 (Ancillary Provision) Order 2015**

Made - - - -

Coming into force - - *1st October 2015*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 27(1) of the Historic Environment Scotland Act 2014⁽¹⁾, section 7 of the Regulatory Reform (Scotland) Act 2014⁽²⁾ and all other powers enabling them to do so.

In accordance with section 26(3)(c) of the Historic Environment Scotland Act 2014 and section 58(3)(b) of the Regulatory Reform (Scotland) Act 2014 a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Historic Environment Scotland Act 2014 (Ancillary Provision) Order 2015 and comes into force on 1st October 2015.

Roads (Scotland) Act 1984

2.—(1) The 1984 Act⁽³⁾ is modified as follows.

(2) In section 91(4) (prevention of danger to road from nearby vegetation and fences etc. or from retaining walls being inadequate: ancient monument) for “the Secretary of State” substitute “Historic Environment Scotland”.

(1) 2014 asp 19.

(2) 2014 asp 3.

(3) Roads (Scotland) Act 1984 (c.54).

(3) In section 151(1) (interpretation)(4) in the definition of “consultation bodies” for paragraph (d) substitute—

“(d) Historic Environment Scotland;”.

(4) The modification made by paragraph (2) does not affect the validity of any consent given under section 91(4) of the 1984 Act before 1st October 2015.

(5) Despite paragraph (3), where before 1st October 2015 the Scottish Ministers have complied with a provision of the 1984 Act mentioned in paragraph (6) in relation to a particular project, Historic Environment Scotland is not to be treated as a consultation body for the purpose of that provision in relation to that project.

(6) The provisions referred to in paragraph (5) are—

- (a) section 20A(6) (environmental assessment of certain road construction projects: consultation bodies’ opinion)(5);
- (b) section 55A(6) (environmental assessment of certain road improvement projects: consultation bodies’ opinion).

(7) In this article “the 1984 Act” means the Roads (Scotland) Act 1984.

Building (Scotland) Act 2003

3.—(1) In section 35(3) of the Building (Scotland) Act 2003(6) (scheduled monuments, listed buildings, etc. consultation) for paragraph (a) substitute—

“(a) Historic Environment Scotland;”.

(2) Where a local authority has, in respect of a notice or works mentioned in section 35(2) of the Building (Scotland) Act 2003, consulted the Scottish Ministers in accordance with that section before 1st October 2015 the provisions of section 35(3)(a) of that Act continue to have effect as they did immediately before that date in relation to that notice or works, as the case may be.

Land Reform (Scotland) Act 2003

4. In section 29(2) of the Land Reform (Scotland) Act 2003(7) (powers to protect natural and cultural heritage etc.) for “The Scottish Ministers” substitute “Historic Environment Scotland”.

Environmental Assessment (Scotland) Act 2005

5.—(1) In section 3(1) of the Environmental Assessment (Scotland) Act 2005(8) (consultation authorities) for paragraph (a) substitute—

“(a) Historic Environment Scotland;”.

(2) The provisions of section 3(1)(a) of the Environmental Assessment (Scotland) Act 2005 continue to have effect as they did immediately before 1st October 2015 for the purposes of—

- (a) section 9 (screening: procedure) and section 10(1) (screening: publicity for determinations) of that Act where the summary referred to in section 9(1) of that Act is sent to the Scottish Ministers before that date; and
- (b) section 15 of that Act (scoping) where the details referred to in section 15(1) of that Act are sent to the Scottish Ministers before that date.

(4) The definition of “consultation bodies” was inserted by S.S.I. 1999/1 and amended by paragraph 12 of Schedule 5 to the National Parks (Scotland) Act 2000 ([asp 10](#)) and S.S.I. 2006/614.

(5) Section 20A and 55A were most recently amended by S.I. 1991/1 and S.S.I. 2006/614.

(6) [2003 asp 8](#).

(7) [2003 asp 2](#).

(8) [2005 asp 15](#).

Housing (Scotland) Act 2006

6.—(1) In paragraph 5(2) of schedule 5 to the Housing (Scotland) Act 2006⁽⁹⁾ (HMO amenity notices enforcement etc.: listed buildings) for paragraph (a) substitute—

“(a) Historic Environment Scotland.”

(2) Where a local authority has, in respect of works mentioned in paragraph 5(2) of schedule 5 to the Housing (Scotland) Act 2006, consulted the Scottish Ministers in accordance with that paragraph before 1st October 2015 the provisions of that paragraph continue to have effect as they did immediately before that date in relation to those works.

Procurement Reform (Scotland) Act 2014

7. In Part 3 of the schedule to the Procurement Reform (Scotland) Act 2014⁽¹⁰⁾ (contracting authorities: others)—

(a) omit entry 43 (the “Royal Commission on the Ancient and Historical Monuments of Scotland”); and

(b) after the entry for Highlands and Islands Enterprise insert the following entry—

“**34A.** Historic Environment Scotland.”

Regulatory Reform (Scotland) Act 2014

8. In schedule 1 to the Regulatory Reform (Scotland) Act 2014⁽¹¹⁾ (regulators for the purposes of Part 1) after the entry for Healthcare Improvement Scotland insert the following entry—

“Historic Environment Scotland”.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

⁽⁹⁾ 2006 asp 1.
⁽¹⁰⁾ 2014 asp 12.
⁽¹¹⁾ 2014 asp 3.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Historic Environment Scotland Act 2014 (Ancillary Provision) Order 2015 No. 271

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential changes to primary legislation in relation to the commencement of various provisions of the Historic Environment Scotland Act 2014. The Order also makes saving and transitional provision in relation to certain of those changes.