



Ancient Monuments and Archaeological Areas Act 1979

1979 CHAPTER 46

PART I

ANCIENT MONUMENTS

Powers of limited owners

18 Powers of limited owners for purposes of sections 12, 16 and 17. E+W

- (1) Subject to section 12 of this Act, a person may establish guardianship of any land under subsection (1) [^{F1}or (1A)] or (2) of that section or join in executing a guardianship deed for the purposes of that section notwithstanding that he is a limited owner of the land.
- (2) A person may—
 - (a) grant any easement, servitude or other right over land which the Secretary of State [^{F2}or the Commission] or any local authority are authorised to acquire under section 16 of this Act; or
 - (b) enter into an agreement under section 17 of this Act with respect to any land; notwithstanding that he is a limited owner of the land.
- (3) For the purposes of this section—
 - (a) a body corporate or corporation sole is a limited owner of any land in which it has an interest; and
 - (b) any other persons are limited owners of land in which they have an interest only if they hold that interest in one or other of the capacities mentioned in subsection (4) below.
- (4) The capacities referred to in subsection (3)(b) above are the following—
 - (a) as tenant for life or statutory owner within the meaning of the ^{M1}Settled Land Act 1925;
 - ^{F3}[(b) as trustees of land;]

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- (c) as liferenter or heir of entail in possession (in Scotland); and
 - (d) as trustees for charities or as commissioners or trustees for ecclesiastical, collegiate or other public purposes.
- (5) The ^{M2}Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 of that Act (general powers of trustees) there were included a power to do any of the following acts in relation to the trust estate or any part of it, that is to say—
- (a) to execute a guardianship deed;
 - (b) to grant any servitude or other right which the Secretary of State or any local authority are authorised to acquire under section 16 of this Act; and
 - (c) to enter into an agreement under section 17 of this Act.
- (6) Subject to subsection (7) below, where a person who is a limited owner of any land by virtue of holding an interest in the land in any of the capacities mentioned in subsection (4) above executes a guardianship deed in relation to the land the guardianship deed shall bind every successive owner of any estate or interest in the land.
- (7) Where the land to which a guardianship deed relates is at the date of the deed subject to any incumbrance not capable of being overreached by the limited owner in exercise of any powers of sale or management conferred on him by law or under any settlement or other instrument, the deed shall not bind the incumbrancer.
- (8) Subject to subsection (9) below, where an agreement under section 17 of this Act to which a limited owner is a party expressly provides that the agreement as a whole or any restriction, prohibition or obligation arising thereunder is to be binding on his successors (but not otherwise), subsections (6) and (7) above shall apply to the agreement or (as the case may be) to the restriction, prohibition or obligation in question as they apply to a guardianship deed.
- (9) Subsection (8) above does not apply to an agreement relating to any land in Scotland unless it is recorded in the Register of Sasines.

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F1** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 44\(2\)](#)
- F2** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 44\(3\)](#)
- F3** S. 18(4)(b) substituted (E.W.) (1.1.1997) by [1996 c. 47, s. 25\(1\)](#), [Sch. 3 para. 17\(b\)](#) (with s. 24(2), [25\(4\)](#)); [S.I. 1996/2974, art.2](#)

Marginal Citations

- M1** [1925 c. 18.](#)
- M2** [1921 c. 58.](#)

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18 Powers of limited owners for purposes of sections 12, 16 and 17. **S**

- (1) Subject to section 12 of this Act, a person may establish guardianship of any land under subsection (1) [^{F4}or (1A)] or (2) of that section or join in executing a guardianship deed for the purposes of that section notwithstanding that he is a limited owner of the land.
- (2) A person may—
 - (a) grant any easement, servitude or other right over land which the Secretary of State [^{F5}or the Commission] or any local authority are authorised to acquire under section 16 of this Act; or
 - (b) enter into an agreement under section 17 of this Act with respect to any land; notwithstanding that he is a limited owner of the land.
- (3) For the purposes of this section—
 - (a) a body corporate or corporation sole is a limited owner of any land in which it has an interest; and
 - (b) any other persons are limited owners of land in which they have an interest only if they hold that interest in one or other of the capacities mentioned in subsection (4) below.
- (4) The capacities referred to in subsection (3)(b) above are the following—
 - (a) as tenant for life or statutory owner within the meaning of the ^{M3}Settled Land Act 1925;
 - (b) as trustees for sale within the meaning of the ^{M4}Law of Property Act 1925;
 - (c) as liferenter ^{F6}... in possession (in Scotland); and
 - (d) as trustees for charities or as commissioners or trustees for ecclesiastical, collegiate or other public purposes.
- (5) The ^{M5}Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 of that Act (general powers of trustees) there were included a power to do any of the following acts in relation to the trust estate or any part of it, that is to say—
 - (a) to execute a guardianship deed;
 - (b) to grant any servitude or other right which the Secretary of State or any local authority are authorised to acquire under section 16 of this Act; and
 - (c) to enter into an agreement under section 17 of this Act.
- (6) Subject to subsection (7) below, where a person who is a limited owner of any land by virtue of holding an interest in the land in any of the capacities mentioned in subsection (4) above executes a guardianship deed in relation to the land the guardianship deed shall bind every successive owner of any estate or interest in the land.
- (7) Where the land to which a guardianship deed relates is at the date of the deed subject to any incumbrance not capable of being overreached by the limited owner in exercise of any powers of sale or management conferred on him by law or under any settlement or other instrument, the deed shall not bind the incumbrancer.
- (8) Subject to subsection (9) below, where an agreement under section 17 of this Act to which a limited owner is a party expressly provides that the agreement as a whole or any restriction, prohibition or obligation arising thereunder is to be binding on his successors (but not otherwise), subsections (6) and (7) above shall apply to the

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agreement or (as the case may be) to the restriction, prohibition or obligation in question as they apply to a guardianship deed.

- (9) Subsection (8) above does not apply to an agreement relating to any land in Scotland unless it is recorded in the Register of Sasines.

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

- F4** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 44(2)**
- F5** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 44(3)**
- F6** Words in s. 18(4)(c) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), Sch. 12 para. 40(3), **13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Marginal Citations

- M3** 1925 c. 18.
- M4** 1925 c. 20.
- M5** 1921 c. 58.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3A) inserted by [2023 asc 3 Sch. 13 para. 20\(b\)](#)
- s. 1AA-1AE omitted by [2023 asc 3 Sch. 13 para. 21](#)
- s. 7(4A) inserted by [2016 anaw 4 s. 10\(2\)](#)
- s. 33(1A) inserted by [2023 asc 3 Sch. 13 para. 35\(a\)](#)