
STATUTORY INSTRUMENTS

1995 No. 1625

**Historic Monuments and Archaeological
Objects (Northern Ireland) Order 1995**

PART II

HISTORIC MONUMENTS

Protection of scheduled monuments

Control of works affecting scheduled monuments

4.—(1) If any person executes or causes or permits to be executed any works to which this Article applies he shall be guilty of an offence unless the works are authorised under this Part.

(2) This Article applies to any of the following works, that is to say—

- (a) any works resulting in the demolition, destruction or disturbance of, or any damage to, a scheduled monument;
- (b) any works for the purpose of removing or repairing a scheduled monument or any part of it or of making any alterations or additions thereto; and
- (c) any flooding or tipping operations on land in, on or under which there is a scheduled monument.

(3) Without prejudice to any other authority to execute works conferred under this Part, works to which this Article applies are authorised under this Part if—

- (a) the Department has granted written consent (referred to in this Order as “scheduled monument consent”) for the execution of the works; and
- (b) the works are executed in accordance with the terms of the consent and of any conditions attached to the consent.

(4) Scheduled monument consent may be granted either unconditionally or subject to conditions (whether with respect to the manner in which or the persons by whom the works or any of the works are to be executed or otherwise).

(5) Without prejudice to the generality of paragraph (4), a condition attached to a scheduled monument consent may require that the Department or a person authorised by the Department be afforded an opportunity, before any works to which the consent relates are begun, to examine the monument and its site and carry out such excavations therein as appear to the Department to be desirable for the purpose of archaeological investigation.

(6) Without prejudice to paragraph (1), if a person executing or causing or permitting to be executed any works to which a scheduled monument consent relates fails to comply with any condition attached to the consent he shall be guilty of an offence, unless he proves that he took all reasonable precautions and exercised all due diligence to avoid contravening the condition.

(7) In any proceedings for an offence under this Article in relation to works within paragraph (2) (a) it shall be a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid or prevent damage to or disturbance of the monument.

(8) In any proceedings for an offence under this Article it shall be a defence to prove the following matters—

- (a) that the works were urgently necessary in the interests of safety and health or for the preservation of the scheduled monument;
- (b) that the works carried out were limited to the minimum measures immediately necessary; and
- (c) that notice in writing justifying in detail the carrying out of the works was given to the Department as soon as reasonably practicable.

(9) A person guilty of an offence under this Article shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment to a fine.

(10) Part I of Schedule 1 shall have effect with respect to applications for, and the effect of, scheduled monument consent.