
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 239

**The Historic Environment Scotland Act 2014 (Saving,
Transitional and Consequential Provisions) Order 2015**

PART 2

Ancient Monuments

Schedule of monuments

2.—(1) Subject to paragraph (2), anything done (or having effect as if done) by the Scottish Ministers for the purposes of or in connection with the function of compiling and maintaining the Schedule conferred on Historic Environment Scotland by virtue of section 15 of, and Part 1 of schedule 2 to, the Act has effect as if done by Historic Environment Scotland in so far as that is required for continuing its effect on and after 1st October 2015.

(2) For the purposes of section 1(6) of the 1979 Act and, to the extent applicable, the purposes of section 1C of the 1979 Act—

- (a) the inclusion of a monument in the Schedule;
- (b) the amendment of an entry in the Schedule relating to a monument; or
- (c) the exclusion of a monument from the Schedule,

by the Scottish Ministers (or having effect as if done by the Scottish Ministers) before 1st October 2015 is not to be treated as having effect as if done by Historic Environment Scotland.

Registration of certificates

3. Section 1(10)(b) of the 1979 Act continues to have effect as it did immediately before 1st October 2015 in respect of any certificate issued before that date by or on behalf of the Scottish Ministers (or having effect as if issued by or on behalf of the Scottish Ministers).

Conditions attached to scheduled monument consent

4. Where—

- (a) a condition attached to a scheduled monument consent by virtue of section 2(5)(b) of the 1979 Act requires that the Scottish Ministers (however described) are to be afforded an opportunity, before any works to which the scheduled monument consent relates are begun, to examine the scheduled monument and its site or to carry out excavations; and
- (b) such opportunity has not been afforded to the Scottish Ministers before 1st October 2015,

the reference in the condition to the Scottish Ministers is to be treated on and after that date as a reference to Historic Environment Scotland.

Defence under section 2(9) of the 1979 Act

5. Where notice of the need for works is given to the Scottish Ministers in accordance with section 2(9) of the 1979 Act before 1st October 2015, that section continues to have effect as it did immediately before 1st October 2015 in connection with any proceedings for an offence under section 2 of the 1979 Act in relation to such works.

Applications for scheduled monument consent

6. The provisions of Part 1 of Schedule 1 to the 1979 Act continue to have effect as they did immediately before 1st October 2015 in respect of an application for scheduled monument consent made before that date but in respect of which no notice of the decision of the Scottish Ministers is given before that date.

Modification and revocation of scheduled monument consent

7. The provisions of section 4 of, and Part 2 of Schedule 1 to, the 1979 Act continue to have effect as they did immediately before 1st October 2015 in respect of a direction under section 4 given before that date.

Scheduled monument enforcement notices

8. The provisions of sections 9A to 9D, 9G, 9H and 9I of the 1979 Act continue to have effect as they did immediately before 1st October 2015 in relation to a scheduled monument enforcement notice served before 1st October 2015.

Temporary Stop notices

9. The provisions of sections 9K and 9N of the 1979 Act continue to have effect as they did immediately before 1st October 2015 in relation to a temporary stop notice issued under section 9K(1) of the 1979 Act before 1st October 2015.

Inventory of gardens and designed landscapes and inventory of battlefields

10.—(1) Subject to paragraphs (2) and (3), anything done by the Scottish Ministers for the purposes of or in connection with the function of compiling and maintaining—

- (a) an inventory of gardens and designed landscapes under section 32A(1) of the 1979 Act; or
- (b) an inventory of battlefields under section 32B(1) of the 1979 Act,

conferred on Historic Environment Scotland by virtue of section 15 of, and Part 6 of Schedule 2 to, the Act has effect as if done by Historic Environment Scotland in so far as that is required for continuing its effect after 1st October 2015.

(2) For the purposes of section 32A(4) of the 1979 Act, and the application of that section by section 32B(3) of the 1979 Act—

- (a) the inclusion of any grounds (as mentioned in section 32A(2) of the 1979 Act) or any battlefield, as the case may be, in an inventory; or
- (b) the modification of an entry in the inventory,

by the Scottish Ministers before 1st October 2015 is not to be treated as having effect as if done by Historic Environment Scotland.

(3) The provisions of section 32A(4), and that section as applied by section 32B(3) of the 1979 Act, continue to have effect as they did immediately before 1st October 2015 in respect of—

- (a) the inclusion of any grounds (as mentioned in section 32A(2) of the 1979 Act) or any battlefield, as the case may be, in an inventory; or
 - (b) the modification of an entry in the inventory,
- by the Scottish Ministers before 1st October 2015.

Restriction on use of metal detectors

11. For the purposes of section 42(1) of the 1979 Act a written consent for the use of a metal detector granted (or having effect as if granted) by the Scottish Ministers and remaining in effect immediately before 1st October 2015, is to be treated as if granted by Historic Environment Scotland and references in such consent to the Scottish Ministers (however described) are to be treated as references to Historic Environment Scotland.

Proceedings for questioning the validity of certain orders, etc

- 12.—(1)** The provisions of section 55 of the 1979 Act continue to have effect as they did immediately before 1st October 2015 in respect of—
- (a) a decision of the Scottish Ministers (whether before, on or after that date) on an application for scheduled monument consent made before that date; and
 - (b) a direction given by the Scottish Ministers under section 4 of the 1979 Act before that date.