

## SCHEDULES

### SCHEDULE 1 **N.I.**

Articles 4(10) and 6(5).

#### CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS

### PART I **N.I.**

#### APPLICATIONS FOR SCHEDULED MONUMENT CONSENT

**1.—**(1) The Department may by regulations make provision with respect to the form and manner in which applications for scheduled monument consent are to be made, the particulars to be included therein and the information to be provided by applicants or (as the case may be) by the Department in connection therewith.

(2) Any scheduled monument consent (including scheduled monument consent granted by order under Article 5) shall (except so far as it otherwise provides) enure for the benefit of the monument and of all persons for the time being interested therein.

**2.—**(1) The Department may refuse to entertain an application for scheduled monument consent unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say—

- (a) a certificate stating that, at the beginning of the period of 21 days ending with the application, no person other than the applicant was the owner of the monument;
  - (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons other than the applicant who, at the beginning of that period, were owners of the monument;
  - (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding heads, that he has given the requisite notice of the application to such one or more of the persons mentioned in head (b) as are specified in the certificate, that he has taken such steps as are reasonably open to him to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so;
  - (d) a certificate stating that the applicant is unable to issue a certificate in accordance with head (a), that he has taken such steps as are reasonably open to him to ascertain the names and addresses of the persons mentioned in head (b) and that he has been unable to do so.
- (2) Any certificate issued for the purposes of sub-paragraph (1)—
- (a) shall contain such further particulars of the matters to which the certificate relates as may be prescribed; and
  - (b) shall be in such form as may be prescribed;

and any reference in that sub-paragraph to the requisite notice is a reference to a notice in such form as may be prescribed.

(3) The Department may by regulations make provision as to who, in the case of any monument, is to be treated as the owner for the purposes of this paragraph.

- (4) If any person—

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- (a) issues a certificate which purports to comply with the requirements of this paragraph and which contains a statement which he knows to be false or misleading in a material particular; or
- (b) recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

3.—(1) The Department may grant scheduled monument consent in respect of all or any part of the works to which an application for scheduled monument consent relates.

(2) Before determining whether or not to grant scheduled monument consent on any application therefor, the Department shall either—

- (a) cause a public local inquiry to be held by the planning appeals commission; or
- (b) afford to the applicant, and to any other person to whom it appears to the Department expedient to afford it, an opportunity of appearing before and being heard by the planning appeals commission.

(3) Before determining whether or not to grant scheduled monument consent on any application therefor, the Department—

- (a) shall in every case consider any representations made by any person with respect to that application before the time when it considers its decision thereon (whether in consequence of any notice given to that person in accordance with any requirements of regulations made under paragraph 2 or of any publicity given to the application by the Department, or otherwise); and
- (b) shall also, if any inquiry or hearing has been held in accordance with sub-paragraph (2), consider the report of the planning appeals commission.

(4) The Department shall serve notice of its decision with respect to the application on the applicant and on every person who has made representations to it with respect to the application.

## PART II **N.I.**

### MODIFICATION AND REVOCATION OF SCHEDULED MONUMENT CONSENT

4.—(1) Before giving a direction under Article 6 modifying or revoking a scheduled monument consent the Department shall serve a notice of proposed modification or revocation on—

- (a) the owner of the monument and (if the owner is not the occupier) the occupier of the monument; and
- (b) any other person who in the opinion of the Department would be affected by the proposed modification or revocation.

(2) A notice under this paragraph shall—

- (a) contain a draft of the proposed modification or revocation and a brief statement of the reasons therefor; and
- (b) specify the time allowed by sub-paragraph (5) for making objections to the proposed modification or revocation and the manner in which any such objections can be made.

(3) Where the effect of a proposed modification (or any part of it) would be to exclude any works from the scope of the scheduled monument consent in question or in any manner to affect the execution of any of the works to which the consent relates, the notice under this paragraph relating

to that proposed modification shall indicate that the works affected must not be executed after the receipt of the notice or (as the case may require) must not be so executed in a manner specified in the notice.

(4) A notice of proposed revocation under this paragraph shall indicate that the works to which the scheduled monument consent in question relates must not be executed after receipt of the notice.

(5) A person served with a notice under this paragraph may make an objection to the proposed modification or revocation at any time before the end of the period of 28 days beginning with the date on which the notice was served.

**5.—**(1) If no objection to a proposed modification or revocation is duly made by a person served with notice thereof in accordance with paragraph 4, or if all objections so made are withdrawn, the Department may give a direction under Article 6 modifying or revoking the scheduled monument consent in question in accordance with the notice.

(2) If any objection duly made as mentioned in sub-paragraph (1) is not withdrawn, then, before giving a direction under Article 6 with respect to the proposed modification or revocation, the Department shall either—

- (a) cause a public local inquiry to be held by the planning appeals commission; or
- (b) afford to any such person an opportunity of appearing before and being heard by the planning appeals commission.

(3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the Department shall afford to each other person served with notice of the proposed modification or revocation in accordance with paragraph 4 and to any other person to whom it appears to the Department expedient to afford it, an opportunity of being heard on the same occasion.

(4) Before determining in a case within sub-paragraph (2) whether to give a direction under Article 6 modifying or revoking the scheduled monument consent in accordance with the notice, the Department—

- (a) shall in every case consider any objections duly made as mentioned in sub-paragraph (1) and not withdrawn; and
- (b) shall also, if any inquiry or hearing has been held in accordance with sub-paragraph (2), consider the report of the planning appeals commission.

(5) After considering any objections and report it is required to consider in accordance with sub-paragraph (4), the Department may give a direction under Article 6 modifying or revoking the scheduled monument consent either in accordance with the notice or with any variation appearing to it to be appropriate.

**6.** As soon as may be after giving a direction under Article 6 the Department shall send a copy of the direction to each person served with notice of its proposed effect in accordance with paragraph 4 and to any other person afforded an opportunity of being heard in accordance with paragraph 5(3).

**7.—**(1) Where in accordance with sub-paragraph (3) of paragraph 4 a notice under that paragraph indicates that any works specified in the notice must not be executed after receipt of the notice, the works so specified shall not be regarded as authorised under Part II of this Order at any time after the relevant service date.

(2) Where in accordance with that sub-paragraph a notice under that paragraph indicates that any works specified in the notice must not be executed after receipt of the notice in a manner so specified, the works so specified shall not be regarded as authorised under Part II of this Order if executed in that manner at any time after the relevant service date.

(3) Where in accordance with sub-paragraph (4) of paragraph 4 a notice under that paragraph indicates that the works to which the scheduled monument consent relates must not be executed after

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receipt of the notice, those works shall not be regarded as authorised under Part II of this Order at any time after the relevant service date.

(4) The preceding provisions of this paragraph shall cease to apply in relation to any works affected by a notice under paragraph 4—

- (a) if within the period of 21 months beginning with the relevant service date the Department gives a direction with respect to the modification or revocation proposed by that notice in accordance with paragraph 5, on the date when it gives that direction;
- (b) if within that period the Department serves notice on the occupier or (if there is no occupier) on the owner of the monument that it has determined not to give such a direction, on the date when it serves that notice; and
- (c) in any other case, at the end of that period.

(5) In this paragraph “the relevant service date” means, in relation to a notice under paragraph 4 with respect to works affecting any monument, the date on which that notice was served on the occupier or (if there is no occupier) on the owner of the monument.

**Changes to legislation:**

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

- Act am. (prosp.) by [1996 c. 24 s.14\(3\)\(5\)](#)
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