

SCHEDULES

SCHEDULE 1

Articles 4(10) and 6(5).

CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS

PART 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

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.

SCHEDULE 2

Article 13(3).

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 13

1. References to the Ministry or to the council shall be construed as references to the Department within the meaning of this Order.

2. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall be construed as references to that Schedule as modified by this Schedule.

3. Omit paragraph 1.

4. For paragraph 2 substitute—

“2.—(1) The Department, where it proposes to acquire land compulsorily under Article 13 of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995, shall give public notice of its intention to do so.

(2) Any such notice—

- (a) shall state clearly the nature of the proposal and shall specify the land to which the proposal relates;
- (b) shall state the time (not being less than 21 days from the last publication of the notice) within which objections to the proposal may be presented to the Department; and
- (c) shall be published in two successive weeks in one or more than one newspaper circulating in the locality in which the land is situated;

and a document containing the substance and effect of that notice shall be served by post on every person appearing to the Department to have an estate in the land, and there shall be attached to that document a map or plan sufficient to enable the person so served to identify the land concerned.”.

5. In paragraph 3—

- (a) in sub-paragraph (1)(b) for the words from “unless no representations” to “or vexatious nature”, substitute “if it appears to the Department necessary to do so” and in head (ii) of that sub-paragraph for the word “refuse” substitute the words “decide not”; and

- (b) in sub-paragraph (2) omit the words “the council and” and “or refusing”.
- 6. In paragraph 4 omit the words from “and may provide” onwards.
- 7. In paragraph 5—
 - (a) in sub-paragraph (1)(a) omit the words “in the prescribed form and manner” and for the words from “, having given notice” to the end, substitute the words “has given notice to the Department of his objection to the making of the vesting order”;
 - (b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;
 - (c) in sub-paragraph (1)(d) omit the words “in the prescribed form”;
 - (d) in sub-paragraph (2) for the words “as may be prescribed” substitute the words “as the Department considers fit”.
- 8. In paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” substitute the words “Consolidated Fund” and for the words “out of the compensation fund” substitute the words “made by the Department”.
- 9. In paragraph 11(3) omit the words “in the prescribed form”.
- 10. In paragraph 12—
 - (a) in sub-paragraph (1) omit the words “such” and “as may be prescribed”;
 - (b) in sub-paragraph (2) for the words from “clerk” to “directs” substitute the words “Department as correct, and publish”.
- 11. In paragraph 14(1) omit the words “in the prescribed form”.
- 12. In paragraph 15(1) for the words “in the prescribed form” substitute the words “in such form as may be approved by the Department”.
- 13. Omit paragraph 19.
- 14. Omit paragraph 20(2).

SCHEDULE 3

Article 45(1).

AMENDMENTS

- 1.—(1) In each of the statutory provisions set out in sub-paragraph (2) for the words “the Historic Monuments Act (Northern Ireland) 1971” there shall be substituted the words “the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995”.
- (2) The statutory provisions mentioned in sub-paragraph (1) are the following, namely—
 - (a) section 97(5) of the Local Government Act (Northern Ireland) 1972(1);
 - (b) Article 48(6) of the Health and Personal Social Services (Northern Ireland) Order 1972(2);
 - (c) Article 10(5) of the Water and Sewerage (Northern Ireland) Order 1973(3);
 - (d) Article 16(6) of the Gas (Northern Ireland) Order 1977(4);

(1) 1972 c. 9 (N.I.)
(2) 1972 NI 14
(3) 1973 NI 2
(4) 1977 NI 7

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- (e) section 230(3)(c) of the Inheritance Tax Act 1984⁽⁵⁾;
- (f) Article 105(9) of the Education and Libraries (Northern Ireland) Order 1986⁽⁶⁾;
- (g) paragraph 4(2) of Schedule 3 to the Electricity (Northern Ireland) Order 1992⁽⁷⁾.

The National Heritage Act 1980 (c. 17)

2. In section 3(6)(e) for the words “section 1(1) of the Historic Monuments Act (Northern Ireland) 1971” there shall be substituted the words “Article 13(1) of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995” and for the words “section 4 of that Act” there shall be substituted the words “Article 16 of that Order”.

The Planning (Northern Ireland) Order 1991 (NI 11)

3. In Article 44(8) for sub-paragraphs (b) and (c) there shall be substituted the following sub-paragraph—

- “(b) a building for the time being included in the schedule of monuments compiled and maintained under Article 3 of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995;”.

The Value Added Tax Act 1994 (c. 23)

4.—(1) In Schedule 8 in Group 6 in Note (1)(b)(ii) for the words “the Historic Monuments Act (Northern Ireland) 1971” there shall be substituted the words “the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995”.

(2) In Schedule 8 in Group 6 in Note (4)—

- (a) paragraph (b) shall cease to have effect;
- (b) in paragraph (c) after sub-paragraph (iv) there shall be inserted
 - “or
 - (v) Part II of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995;”.

SCHEDULE 4

Article 45(2).

REPEALS

Chapter or Number	Short Title	Extent of Repeal
1971 c. 17 (N.I.).	The Historic Monuments Act (Northern Ireland) 1971.	The whole Act.
1980 NI 6.	The Criminal Justice (Northern Ireland) Order 1980.	In Schedule 1, paragraph 59c.
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraph 122.

(5) 1984 c. 51
 (6) 1986 NI 3
 (7) 1992 NI 1

Chapter or Number	Short Title	Extent of Repeal
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 8, in Group 6, Note (4)(b) and the word “or” at the end of Note (4)(c)(iii).
1993 NI 15.	The Roads (Northern Ireland) Order 1993.	In Schedule 10, the amendment to the Historic Monuments Act (Northern Ireland) 1971.