

Status: Point in time view as at 01/12/2011.

Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part I is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS

PART I

APPLICATIONS FOR SCHEDULED MONUMENT CONSENT

- 1 (1) Provision may be made by regulations under this Act 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 Secretary of State in connection therewith.
- [^{F1}(1A) The Scottish Ministers may by regulations make provision as to—
- (a) the manner in which scheduled monument consent is to be granted;
 - (b) the form and content of scheduled monument consent.]
- (2) Any scheduled monument consent (including scheduled monument consent granted by order under section 3 of this Act) 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.

Textual Amendments

- F1** Sch. 1 para. 1(1A) inserted (S.) (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 15(2), 33(2)**; [S.S.I. 2011/174](#), art. 2, Sch.; [S.S.I. 2011/372](#), art. 2, Sch.

- 2 (1) [^{F2}The Scottish Ministers may refuse to entertain an application for scheduled monument consent unless it is accompanied by a certificate as to the interests in the monument to which the application relates.]
- (2) [^{F3}The Scottish Ministers may by regulations—
- (a) make provision as to the notice of any application for scheduled monument consent to be given to any person (other than the applicant) who, at the beginning of the period of 21 days ending with the date of the application, was the owner of the monument;
 - (b) make provision for publicising applications for scheduled monument consent;
 - (c) make provision as to—
 - (i) the form and content of certificates such as are mentioned in subparagraph (1) and notices such as are mentioned in paragraph (a);
 - (ii) service of such notices;

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- (d) make provision as to such further particulars of the matters to which such certificates relate as may be prescribed;
 - (e) require an applicant for scheduled monument consent to certify, in such form as may be prescribed, or to provide evidence, that any requirements of the regulations have been satisfied.
- (2A) Regulations under sub-paragraph (2) may make different provision for different classes of case.]
- (3) Regulations made for the purposes of this paragraph may make provision as to who, in the case of any monument, is to be treated as the owner for those purposes.
- (4) If any person issues a certificate which purports to comply with the requirements of this paragraph[or regulations made under it] and which contains a statement which he knows to be false or misleading in a material particular, or 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 or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding [^{F4}level 3 on the standard scale].

Textual Amendments

- F2** Sch. 1 para. 2(1)-(2A) substituted for Sch. 1 para. 2(1)(2) (S.) (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 15(3)(a)**, 33(2); S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.; S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.
- F3** Sch. 1 para. 2(2)(2A) substituted for Sch. 1 para. 2(2) (S.) (30.6.2011 for specified purposes) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), ss. 15(3)(a), 33(2); S.S.I. 2011/174, art. 2, Sch.
- F4** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48\)](#), **s. 46** and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **s. 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**)

Modifications etc. (not altering text)

- C1** Sch. 1 para. 2 modified (1.1.1993) by [S.I. 1992/3138](#), reg. 4(2), **Sch. 2 para. 1**.
- C2** Sch. 1 para. 2 modified (S.) (28.12.2007) by [The Transport and Works \(Scotland\) Act 2007 \(Consents under Enactments\) Regulations 2007 \(S.S.I. 2007/569\)](#), regs. 1, **6(2)**
- C3** Sch. 1 para. 2(1)(2) savings for effects of 2011 asp 3 s. 15(3) (S.) (1.12.2011) by [The Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(Saving, Transitional and Consequential Provisions\) Order 2011 \(S.S.I. 2011/377\)](#), arts. 1(1), **3**
- C4** Words in Sch. 1 para. 1(4) inserted (S.) (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 15(3)(b)**, 33(2); S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.

[^{F5}2A As soon as practicable after receiving an application for scheduled monument consent in relation to a monument situated in England, the Secretary of State shall send a copy of the application to the Commission.]

Textual Amendments

- F5** Para. 2A inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 68(2)**

^{F6}[^{F7} 2~~B~~1) Where sub-paragraph (2) or (3) applies, the Scottish Ministers may refuse to entertain an application for scheduled monument consent.

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- (2) This sub-paragraph applies where—
 - (a) within the period of 2 years ending with the date the application is received, the Scottish Ministers have refused a similar application; and
 - (b) in their opinion there has been no significant change in any material considerations since the similar application was refused.
- (3) This sub-paragraph applies where the application is made at a time when a similar application is under consideration.
- (4) For the purposes of this paragraph, an application for scheduled monument consent is to be taken to be similar to another such application only if the scheduled monument and the works to which the applications relate are, in the opinion of the Scottish Ministers, the same or substantially the same.]

Textual Amendments

- F6** Words in s. 61(1) inserted (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), ss. **6(3)**, 33(2); S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.
- F7** Sch. 1 para. 2B inserted (S.) (1.12.2011, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), ss. **16**, 33(2); S.S.I. 2011/372, art. 2, Sch.

Modifications etc. (not altering text)

- C5** Sch. 1 para. 2B(1) restricted (S.) (1.12.2011) by [The Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(Saving, Transitional and Consequential Provisions\) Order 2011 \(S.S.I. 2011/377\)](#), arts. 1(1), 4

- 3 (1) The Secretary of State 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 Secretary of State [^{F8}shall][^{F8}may] either—
 - (a) cause a public local inquiry to be held; or
 - (b) afford to the applicant, and to any other person to whom it appears to the Secretary of State expedient to afford it, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) Before determining whether or not to grant scheduled monument consent on any application therefor the Secretary of State—
 - (a) shall in every case consider any representations made by any person with respect to that application before the time when he considers his decision thereon (whether in consequence of any notice given to that person in accordance with any requirements of regulations made by virtue of paragraph 2 above or of any publicity given to the application by the Secretary of State, or otherwise); and
 - (b) shall also, if any inquiry or hearing has been held in accordance with subparagraph (2) above, consider the report of the person who held it. [^{F9}and
 - (c) shall, if the monument in question is situated in England, consult with the Commission.]

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- (4) The Secretary of State shall serve notice of his decision with respect to the application on the applicant and on every person who has made representations to him with respect to the application.

Textual Amendments

- F8** Word in Sch. 1 para. 3(2) substituted (S.) (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 17, 33(2)**; S.S.I. 2011/372, art. 2, Sch.
- F9** Para. 3(3)(c) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 68(3)**

- 4 (1) Subsections (2) to (5) of section 250 of the ^{M1}Local Government Act 1972 (evidence and costs at local inquiries) shall apply to a public local inquiry held in pursuance of paragraph 3(2) above in relation to a monument situated in England and Wales as they apply where a Minister or the Secretary of State causes an inquiry to be held under subsection (1) of that section.
- (2) Subsections (2) to (8) of section 210 of the ^{M2}Local Government (Scotland) Act 1973 (evidence and expenses at local inquiries) shall apply to a public local inquiry held in pursuance of paragraph 3(2) above in relation to a monument situated in Scotland as they apply where a Minister or the Secretary of State causes an inquiry to be held under subsection (1) of that section.

Marginal Citations

- M1** 1972 c. 70.
M2 1973 c. 65.

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