

Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Part II is up to date with all changes known to be in force on or before 28 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) View outstanding changes

SCHEDULES

SCHEDULE 1

CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS

PART II

MODIFICATION AND REVOCATION OF SCHEDULED MONUMENT CONSENT

- 5 [F1(1) Before giving a direction under section 4 of this Act modifying or revoking a scheduled monument consent the Secretary of State 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 Secretary of State would be affected by the proposed modification or revocation.
- [F2(1A) Where the monument in question is situated in England, the Secretary of State shall consult with the Commission before serving a notice under this paragraph, and on serving such a notice he shall send a copy of it to the Commission.]
- (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) below 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 twenty-eight days beginning with the date on which the notice was served.]

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Textual Amendments

- F1** Sch. 1 paras. 5-9 repealed (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 2 para. 15\(a\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F2** Para. 5(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 68\(4\)](#)

Modifications etc. (not altering text)

- C1** Sch. 1 paras. 5-9 savings for effects of 2014 asp 19, Sch. 2 para. 15(a) (S.) (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), arts. 1(1), 7

- 6 ^{F1}(1) If no objection to a proposed modification or revocation is duly made by a person served with notice thereof in accordance with paragraph 5 above, or if all objections so made are withdrawn, the Secretary of State may give a direction under section 4 of this Act 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) above is not withdrawn, then, before giving a direction under section 4 of this Act with respect to the proposed modification or revocation, the Secretary of State shall either—
- (a) cause a public local inquiry to be held; or
 - (b) afford to any such person an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the Secretary of State shall afford to each other person served with notice of the proposed modification or revocation in accordance with paragraph 5 above, and to any other person to whom it appears to the Secretary of State expedient to afford it, an opportunity of being heard on the same occasion.
- (4) Before determining in a case within sub-paragraph (2) above whether to give a direction under section 4 of this Act modifying or revoking the scheduled monument consent in accordance with the notice, the Secretary of State—
- (a) shall in every case consider any objections duly made as mentioned in sub-paragraph (1) above and not withdrawn; and
 - (b) shall also, if any inquiry or hearing has been held in accordance with sub-paragraph (2) above, consider the report of the person who held it.
- (5) After considering any objections and report he is required to consider in accordance with sub-paragraph (4) above the Secretary of State may give a direction under section 4 of this Act modifying or revoking the scheduled monument consent either in accordance with the notice or with any variation appearing to him to be appropriate.]

Textual Amendments

- F1** Sch. 1 paras. 5-9 repealed (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 2 para. 15\(a\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

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- 7 [F1As soon as may be after giving a direction under section 4 of this Act the Secretary of State shall send a copy of the direction to each person served with notice of its proposed effect in accordance with paragraph 5 above and to any other person afforded an opportunity of being heard in accordance with paragraph 6(3) above.]

Textual Amendments

- F1** Sch. 1 paras. 5-9 repealed (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 15(a)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

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- 8 [F1(1) Where in accordance with sub-paragraph (3) of paragraph 5 above 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 I of this Act 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 I of this Act if executed in that manner at any time after the relevant service date.
- (3) Where in accordance with sub-paragraph (4) of paragraph 5 above a notice under that paragraph indicates that the works to which the scheduled monument consent relates must not be executed after receipt of the notice, those works shall not be regarded as authorised under Part I of this Act 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 5 above—
- (a) if within the period of twenty-one months beginning with the relevant service date the Secretary of State gives a direction with respect to the modification or revocation proposed by that notice in accordance with paragraph 6 above, on the date when he gives that direction;
- (b) if within that period the Secretary of State serves notice on the occupier or (if there is no occupier) on the owner of the monument that he has determined not to give such a direction, on the date when he 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 5 above with respect to works affecting any monument, the date on which

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that notice was served on the occupier or (if there is no occupier) on the owner of the monument.]

Textual Amendments

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Modifications etc. (not altering text)

C1 Sch. 1 paras. 5-9 savings for effects of 2014 asp 19, Sch. 2 para. 15(a) (S.) (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), arts. 1(1), 7

- 9 ^{F1}(1) Subject to sub-paragraph (2) below, 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 6(2) above as they apply where a Minister or the Secretary of State causes an inquiry to be held under subsection (1) of that section.
- (2) Subsection (4) of that section (costs of the Minister causing the inquiry to be held to be defrayed by such local authority or party to the inquiry as the Minister may direct) shall not apply except in so far as the Secretary of State is of opinion, having regard to the object and result of the inquiry, that his costs should be defrayed by any party thereto.
- (3) In the application of this paragraph to Scotland, in sub-paragraph (1) for the words “subsections (2) to (5) of section 250 of the ^{M2}Local Government Act 1972 (evidence and costs at local inquiries)” there shall be substituted the words “subsections (2) to (8) of section 210 of the ^{M3}Local Government (Scotland) Act 1973 (evidence and expenses at local inquiries)”, and in sub-paragraph (2) for the words “subsection (4) of that section (costs)” there shall be substituted the words “subsection (7) of that section (expenses”).]

Textual Amendments

F1 Sch. 1 paras. 5-9 repealed (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 15(a)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

Modifications etc. (not altering text)

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Marginal Citations

M1 1972 c. 70.
M2 1972 c. 70.
M3 1973 c. 65.

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- [^{F3}10 (1) Except as provided for in paragraph 11, an order made by Historic Environment Scotland under section 4 modifying or revoking a scheduled monument consent does not take effect unless it is confirmed by the Scottish Ministers.
- (2) Where Historic Environment Scotland submits an order to the Scottish Ministers for confirmation, it must serve notice on—
- (a) the owner of the scheduled monument affected,
 - (b) where the owner is not the occupier of the monument, the occupier, and
 - (c) any other person who in its opinion will be affected by the order.
- (3) The notice must specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Scottish Ministers for the purpose.
- (4) If within that period a person on whom the notice is served so requires, the Scottish Ministers must, before they confirm the order, give such an opportunity both to that person and to Historic Environment Scotland.
- (5) The Scottish Ministers may confirm any such order submitted to them either without modification or subject to such modifications as they consider expedient.

Textual Amendments

- F3** Sch. 1 paras. 10, 11 inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 15(b)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

Modifications etc. (not altering text)

- C2** Sch. 1 para. 10 savings for effects of 2014 asp 19, Sch. 2 para. 15(b) (S.) (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), arts. 1(1), 7

- 11 (1) Where sub-paragraph (2) applies, Historic Environment Scotland—
- (a) need not submit the order under section 4 modifying or revoking the scheduled monument consent to the Scottish Ministers for approval,
 - (b) must instead take the steps mentioned in sub-paragraph (3).
- (2) This sub-paragraph applies where—
- (a) the owner of the scheduled monument affected,
 - (b) where the owner is not the occupier of the monument, the occupier, and
 - (c) all other persons who in Historic Environment Scotland's opinion will be affected by the order,
- have notified Historic Environment Scotland in writing that they do not object to the order.
- (3) The steps referred to in sub-paragraph (1)(b) are—
- (a) advertising in the prescribed manner the fact that the order has been made,
 - (b) serving notice to the same effect on the persons mentioned in sub-paragraph (2), and
 - (c) sending a copy of any such advertisement to the Scottish Ministers not more than 3 days after its publication.

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- (4) The advertisement under sub-paragraph (3)(a) must specify—
- (a) the period within which persons affected by the order may give notice to the Scottish Ministers that they require an opportunity of appearing before and being heard by a person appointed by the Scottish Ministers for the purpose, and
 - (b) the period at the end of which, if no such notice is given to the Scottish Ministers, the order may take effect by virtue of this paragraph and without being confirmed by the Scottish Ministers.
- (5) The period referred to in sub-paragraph (4)(a) must not be less than 28 days from the date on which the advertisement first appears.
- (6) The period referred to in sub-paragraph (4)(b) must not be less than 14 days from the end of the period referred to in sub-paragraph (4)(a).
- (7) The notice under sub-paragraph (3)(b) must include a statement to the effect that no compensation is payable under section 9 in respect of an order which takes effect by virtue of this paragraph.
- (8) The order takes effect at the end of the period referred to in sub-paragraph (4)(b) without being confirmed by the Scottish Ministers if—
- (a) no person claiming to be affected by the order has given notice to the Scottish Ministers as mentioned in sub-paragraph (4)(a) within the period referred to in that sub-paragraph, and
 - (b) the Scottish Ministers have not directed that the order be submitted to them for confirmation.]

Textual Amendments

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Modifications etc. (not altering text)

C3 Sch. 1 para. 11 savings for effects of 2014 asp 19, Sch. 2 para. 15(b) (S.) (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), arts. 1(1), 7

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3A) inserted by [2023 asc 3 Sch. 13 para. 20\(b\)](#)
- s. 1AA-1AE omitted by [2023 asc 3 Sch. 13 para. 21](#)
- s. 7(4A) inserted by [2016 anaw 4 s. 10\(2\)](#)
- s. 33(1A) inserted by [2023 asc 3 Sch. 13 para. 35\(a\)](#)