

SCHEDULE 2 FUNCTIONS OF HISTORIC ENVIRONMENT SCOTLAND IN RELATION TO SCHEDULED MONUMENTS

PART 2

SCHEDULED MONUMENT CONSENT

- 15 In Part 2 of schedule 1 (modification and revocation of scheduled monument consent)—
- (a) paragraphs 5 to 9 are repealed,
 - (b) after paragraph 9 insert—
 - “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.
- 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

Status: This is the original version (as it was originally enacted).

- (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.
- (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.”.