

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

**PART 5**

APPEALS AND REFERRALS

**CHAPTER 2**

REFERRAL OF CERTAIN APPLICATIONS

*Referral of certain applications*

35 After section 3A (inserted by paragraph 6) insert—

**“3B Referral of certain applications to the Scottish Ministers**

- (1) The Scottish Ministers may give directions requiring applications for—
  - (a) scheduled monument consent,
  - (b) variation or discharge of conditions to which scheduled monument consent is subject,
  - (c) subsequent approval required by a condition to which scheduled monument consent is subject,to be referred to them instead of being dealt with by Historic Environment Scotland.
- (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.
- (3) A direction under this section may be withdrawn or modified by a subsequent direction.
- (4) An application in respect of which a direction under this section has effect is to be referred to the Scottish Ministers accordingly.
- (5) In determining an application under this section, the Scottish Ministers may deal with the application as if it had been made to them in the first instance.
- (6) Except as provided for by section 55, the decision of the Scottish Ministers on any application referred to them under this section is final.
- (7) The reference in subsection (1)(c) to scheduled monument consent includes a reference to consent granted by order under section 3.

**3C Procedure for referrals under section 3B**

- (1) The Scottish Ministers may by regulations make provision in connection with referrals under section 3B, including provision about the information that is to be provided to, or may be required by, the Scottish Ministers in connection with the referral.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Regulations under subsection (1) may also make provision about the procedure to be followed, including—
  - (a) the notification of a referral,
  - (b) the manner in which a referral is to be conducted.
- (3) Regulations made by virtue of subsection (2)(b) may also include provision that the manner in which a referral, or any stage of a referral, is to be conducted (as for example whether written submissions are to be presented or persons are to be heard) is to be at the discretion of the Scottish Ministers (or of a person appointed by them under this Act).”.