
Status: Point in time view as at 01/01/2006.

Changes to legislation: Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995, Cross Heading: Guardianship of historic monuments is up to date with all changes known to be in force on or before 11 June 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)

STATUTORY INSTRUMENTS

1995 No. 1625

Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995

PART II

HISTORIC MONUMENTS

Guardianship of historic monuments

Appointment of Department as guardian of historic monuments

15.—(1) Subject to paragraph (2), the owner of any historic monument may, with the consent of the Department, by deed appoint the Department guardian of the monument.

(2) Where the owner of an historic monument is not the occupier of that monument he may not appoint the Department guardian of the monument unless the occupier is also a party to the deed executed for the purposes of paragraph (1).

(3) Any person who has an estate in an historic monument may be a party to any such deed in addition to the owner of the monument and (where the owner is not the occupier) the occupier.

(4) In relation to any monument of which the Department has been appointed guardian, references in this Order to the guardianship deed are references to the deed executed for the purposes of paragraph (1).

(5) A guardianship deed shall bind every person deriving title from any person executing it, and, where a monument is the subject of a settlement and a person executing the deed is a person having a power of sale of the settled land, the deed shall bind every person entitled to an estate subsisting or which may arise under the settlement, except—

- (a) an estate having priority to the settlement;
- (b) any estate which has been conveyed or created for securing money actually raised at the date of the deed;
- (c) all leases, grants of easements or other rights or privileges granted or made before the date of the deed by the person executing the deed, or by any of his predecessors in title, or by any trustees for him or them under the settlement or under any statutory power, or being otherwise binding on the successors of the person executing the deed.

(6) The Department shall not consent to become guardian of any structure which is occupied as a dwelling house by any person other than a person employed as the caretaker thereof or his family.

(7) Except as provided by this Order, any person who has any estate in a monument under guardianship shall have the same right and title to, and estate in, the monument in all respects as if the Department had not become guardian of the monument.

(8) The Department may defray or contribute towards the costs incurred by the owner of any historic monument in appointing the Department as guardian of the monument.

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Effect of guardianship

16.—(1) The Department shall maintain any monument which is under its guardianship.

(2) The Department shall have full control and management of any monument which is under its guardianship.

(3) With a view to fulfilling its duty under paragraph (1) to maintain a monument of which it is guardian, the Department may do all such things as may be necessary or expedient for the maintenance of the monument and for the exercise by it of proper control and management with respect to the monument.

(4) Without prejudice to the generality of the preceding provisions of this Article the Department may—

- (a) make any examination of a monument which is under its guardianship by virtue of this Order; and
- (b) open up any such monument or make excavations therein for the purpose of examination or otherwise.

(5) A person authorised by the Department may at any reasonable time enter the site of a monument which is under the Department's guardianship for the purpose of exercising on behalf of the Department any of its powers under this Article in relation to the monument.

(6) Paragraphs (2) to (4) are subject to any provision to the contrary in the guardianship deed.

Termination of guardianship

17.—(1) Subject to the following provisions of this Article, where the Department is guardian of any monument, it may by agreement made with the owner of the monument—

- (a) exclude any part of the monument from guardianship; or
- (b) renounce guardianship of the monument;

but except as provided above the monument shall remain under guardianship (unless it is acquired by the Department) until guardianship is terminated under paragraph (4).

(2) The Department shall not enter into an agreement under paragraph (1) unless it is satisfied with respect to the part of the monument or (as the case may be) with respect to the whole of the monument in question—

- (a) that satisfactory arrangements have been made for ensuring its protection after termination of the guardianship; or
- (b) that it is no longer practicable to protect it (whether because of the cost of protecting it or otherwise).

(3) An agreement under paragraph (1) shall be made under seal.

(4) If a person who is not bound by the guardianship deed becomes owner of the monument, he may terminate the Department's guardianship of the monument by a notice in writing to that effect served on the Department.

(5) A notice served under paragraph (4) in respect of a monument has effect to terminate the Department's guardianship of the monument as from the date of service thereof.

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