

## SCHEDULES

### SCHEDULE 19

Section 21(2)

#### ANCIENT MONUMENTS

##### *Disapplication of controls*

- 1 (1) This paragraph has effect in relation to the Ancient Monuments and Archaeological Areas Act 1979.
- (2) Section 2 (control of works affecting scheduled monuments) does not apply to works authorised by this Act.
- (3) The powers of entry under the following provisions are not exercisable in relation to land used for or in connection with the carrying out of any of the works authorised by this Act—
  - section 6(1) (entry to ascertain condition of scheduled monument);
  - section 6A(1) (entry to enforce control of works affecting scheduled monument);
  - section 26 (entry to record matters of archaeological or historical interest).
- (4) The provisions of the Act with respect to the functions of a person as a guardian by virtue of the Act, and the provisions of any agreement under section 17 (agreement concerning ancient monuments and land in their vicinity), have effect subject to the powers under this Act with respect to works.
- (5) Section 19 (public access to monuments under public control) does not apply in relation to a monument which is closed by the nominated undertaker for the purposes of, in connection with or in consequence of the carrying out of any of the works authorised by this Act.
- (6) Regulations under section 19(3) or (4A) (which may include provision prohibiting or regulating acts which would tend to injure or disfigure a monument or its amenities or to disturb the public in their enjoyment of it) do not apply to anything done in exercise of the powers under this Act with respect to works.
- (7) The power under section 19(6) (power to refuse admission to monuments under public control) is not exercisable so as to prevent or restrict the exercise of the powers under this Act with respect to works.
- (8) In section 25 (treatment of ancient monuments)—
  - (a) subsection (2) (superintendence by Commission) does not authorise the superintendence of the carrying out of any of the works authorised by this Act, and
  - (b) subsection (3) (power of Commission to charge for advice under subsection (1)) does not apply in relation to advice given in connection with the carrying out of any of those works.

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*Status: This is the original version (as it was originally enacted).*

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- (9) Section 28 (offence of damaging certain ancient monuments) does not apply to anything done in exercise of the powers under this Act with respect to works.
  - (10) Section 35 (notice required of operations in areas of archaeological importance) does not apply to operations carried out in exercise of the powers under this Act with respect to works.
  - (11) Section 39(1) (power to investigate in advance of operations notice any site which may be acquired compulsorily) has effect as if operations carried out in exercise of the powers under this Act with respect to works were exempt operations for the purposes of that provision.
  - (12) Section 42(1) (prohibition on use of metal detectors in protected places without consent) does not apply to the use of a metal detector for the purposes of or in connection with the exercise of the powers under this Act with respect to works.
  - (13) Section 42(3) (prohibition on removal without consent of object discovered by use of a metal detector in a protected place) does not apply to the removal of objects discovered by the use of a metal detector for the purposes of or in connection with the exercise of the powers under this Act with respect to works.
- 2
- (1) The consent of the nominated undertaker is required for the exercise of the power of entry under section 36(1) of the National Heritage Act 1983 (entry to obtain information about ancient monuments and historic buildings for the purposes of the records kept by the Commission) in relation to land used, or intended for use, for or in connection with the carrying out of any of the works authorised by this Act.
  - (2) Consent for the purposes of sub-paragraph (1)—
    - (a) must not be unreasonably withheld;
    - (b) may be granted subject to compliance with any reasonable requirements or conditions imposed for reasons of safety or for the purpose of preventing interference with or delay to the works.
  - (3) Section 36(6) of the National Heritage Act 1983 (which, in relation to land on which works are being carried out, regulates the exercise of the power under section 36(1) to enter land to obtain information) does not apply in relation to land on which works authorised by this Act are being carried out.
  - (4) Any dispute under this paragraph must be referred to arbitration if the parties so agree, but must otherwise be determined by the Secretary of State for Transport and the Secretary of State for Digital, Culture, Media and Sport acting jointly.

*Power to disapply provision made by paragraphs 1 and 2*

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- (1) The Secretary of State may by regulations make any provision specified in sub-paragraph (2) in relation to any work constructed in exercise of the powers under this Act.
  - (2) The provision referred to in sub-paragraph (1) is—
    - (a) provision that paragraph 1(2) does not apply in relation to relevant works;
    - (b) provision that paragraph 1(3) does not apply in relation to land used for or in connection with the carrying out of relevant works;
    - (c) provision that paragraph 1(8)(a) and (b) do not apply in relation to relevant works;

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- (d) provision that paragraph 1(10) and (11) do not apply in relation to operations carried out in exercise of the powers under this Act which are, or are carried out in connection with, relevant works;
  - (e) provision that paragraph 1(12) does not apply in relation to use of a metal detector for the purposes of or in connection with relevant works;
  - (f) provision that paragraph 1(13) does not apply in relation to removal of objects discovered by any such use;
  - (g) provision that paragraph 2(1) does not apply in relation to land used, or intended for use, for or in connection with the carrying out of relevant works;
  - (h) provision that paragraph 2(3) does not apply in relation to land on which relevant works are being carried out.
- (3) In this paragraph, “relevant works” means works which are—
- (a) carried out in exercise of the powers under this Act for the maintenance or alteration of the work referred to in sub-paragraph (1), and
  - (b) begun on or after such day as may be specified in regulations under that sub-paragraph.
- (4) Regulations under sub-paragraph (1) may make different provision for different purposes.
- (5) Regulations under sub-paragraph (1) must be made by statutory instrument; and a statutory instrument containing such regulations must be laid before Parliament after being made.

#### *Inspection and observation of works etc*

- 4 (1) Any person duly authorised in writing by the Commission may at any reasonable time enter land on which (or in or under which) a scheduled monument is situated—
- (a) for the purpose of observing or advising upon the exercise in relation to the land of any of the powers under paragraph 1 of Schedule 2 to this Act, or
  - (b) for the purpose of inspecting, observing or advising upon the carrying out of any works on the land in exercise of any of the other powers under this Act.
- (2) The right under sub-paragraph (1) is not exercisable at a time when the nominated undertaker reasonably considers that it is not safe to exercise it.
- (3) A person exercising the right under sub-paragraph (1) must comply with directions given by the nominated undertaker for the purpose of securing compliance with relevant health and safety provisions.
- (4) In this paragraph, “scheduled monument” has the same meaning as in the Ancient Monuments and Archaeological Areas Act 1979.

#### *Interpretation*

- 5 In this Schedule, references to “the Commission” are to the Historic Buildings and Monuments Commission for England.