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## SCHEDULES

### SCHEDULE 1

Sections 2 and 4.

#### CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS

##### PART I

###### APPLICATIONS FOR SCHEDULED MONUMENT CONSENT

- 1 (1) Provision may be made by regulations under this Act with respect to the form and manner in which applications for scheduled monument consent are to be made, the particulars to be included therein and the information to be provided by applicants or (as the case may be) by the Secretary of State in connection therewith.
- (2) Any scheduled monument consent (including scheduled monument consent granted by order under section 3 of this Act) shall (except so far as it otherwise provides) enure for the benefit of the monument and of all persons for the time being interested therein.
- 2 (1) The Secretary of State may refuse to entertain an application for scheduled monument consent unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say—
  - (a) a certificate stating that, at the beginning of the period of twenty-one days ending with the application, no person other than the applicant was the owner of the monument;
  - (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons other than the applicant who, at the beginning of that period, were owners of the monument;
  - (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in paragraph (b) above as are specified in the certificate, that he has taken such steps as are reasonably open to him to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so;
  - (d) a certificate stating that the applicant is unable to issue a certificate in accordance with paragraph (a) above, that he has taken such steps as are reasonably open to him to ascertain the names and addresses of the persons mentioned in paragraph (b) above and that he has been unable to do so.
- (2) Any certificate issued for the purposes of sub-paragraph (1) above—
  - (a) shall contain such further particulars of the matters to which the certificate relates as may be prescribed by regulations made for the purposes of this paragraph; and
  - (b) shall be in such form as may be so prescribed;

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and any reference in that sub-paragraph to the requisite notice is a reference to a notice in the form so prescribed.

- (3) Regulations made for the purposes of this paragraph may make provision as to who, in the case of any monument, is to be treated as the owner for those purposes.
- (4) If any person issues a certificate which purports to comply with the requirements of this paragraph and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding [<sup>F1</sup>level 3 on the standard scale].

#### Textual Amendments

**F1** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48\)](#), [s. 46](#) and [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [s. 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

#### Modifications etc. (not altering text)

**C1** Sch. 1 para. 2 modified (1.1.1993) by [S.I. 1992/3138](#), [reg. 4\(2\)](#), [Sch. 2 para.1](#).

[<sup>F2</sup>2A As soon as practicable after receiving an application for scheduled monument consent in relation to a monument situated in England, the Secretary of State shall send a copy of the application to the Commission.]

#### Textual Amendments

**F2** Para. 2A inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), [s. 41](#), [Sch. 4 para. 68\(2\)](#)

- 3 (1) The Secretary of State may grant scheduled monument consent in respect of all or any part of the works to which an application for scheduled monument consent relates.
- (2) Before determining whether or not to grant scheduled monument consent on any application therefor, the Secretary of State shall either—
  - (a) cause a public local inquiry to be held; or
  - (b) afford to the applicant, and to any other person to whom it appears to the Secretary of State expedient to afford it, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) Before determining whether or not to grant scheduled monument consent on any application therefor the Secretary of State—
  - (a) shall in every case consider any representations made by any person with respect to that application before the time when he considers his decision thereon (whether in consequence of any notice given to that person in accordance with any requirements of regulations made by virtue of paragraph 2 above or of any publicity given to the application by the Secretary of State, or otherwise); 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. [<sup>F3</sup>and

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(c) shall, if the monument in question is situated in England, consult with the Commission.]

(4) The Secretary of State shall serve notice of his decision with respect to the application on the applicant and on every person who has made representations to him with respect to the application.

#### Textual Amendments

**F3** Para. 3(3)(c) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 68\(3\)](#)

4 (1) Subsections (2) to (5) of section 250 of the <sup>M1</sup>Local Government Act 1972 (evidence and costs at local inquiries) shall apply to a public local inquiry held in pursuance of paragraph 3(2) above in relation to a monument situated in England and Wales as they apply where a Minister or the Secretary of State causes an inquiry to be held under subsection (1) of that section.

(2) Subsections (2) to (8) of section 210 of the <sup>M2</sup>Local Government (Scotland) Act 1973 (evidence and expenses at local inquiries) shall apply to a public local inquiry held in pursuance of paragraph 3(2) above in relation to a monument situated in Scotland as they apply where a Minister or the Secretary of State causes an inquiry to be held under subsection (1) of that section.

#### Marginal Citations

**M1** 1972 c. 70.

**M2** 1973 c. 65.

## PART II

### MODIFICATION AND REVOCATION OF SCHEDULED MONUMENT CONSENT

5 (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.

[<sup>F4</sup>(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.

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- (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.

#### **Textual Amendments**

**F4** Para. 5(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 68\(4\)](#)

- 6 (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.
- 7 As 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

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- 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.
- 8 (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 that notice was served on the occupier or (if there is no occupier) on the owner of the monument.
- 9 (1) Subject to sub-paragraph (2) below, subsections (2) to (5) of section 250 of the <sup>M3</sup>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 <sup>M4</sup>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 <sup>M5</sup>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)”.

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#### Marginal Citations

- M3** 1972 c. 70.  
**M4** 1972 c. 70.  
**M5** 1973 c. 65.

## SCHEDULE 2

Section 33.

### DESIGNATION ORDERS

#### *Designation orders by the Secretary of State*

- 1 (1) A designation order made by the Secretary of State shall describe by reference to a map the area affected.
- (2) The map shall be to such a scale, and the order in such form, as the Secretary of State considers appropriate.
- 2 Before making a designation order the Secretary of State shall—
- (a) consult each of the local authorities concerned; and
  - [<sup>F5</sup>(aa) consult with the Commission (if the area which would be designated by the order is situated in England); and]
  - (b) publish notice of his proposal to make the order;
- in accordance with paragraph 3 below.

#### Textual Amendments

- F5** Para. 2(aa) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 69\(2\)](#)

- 3 (1) The [<sup>F6</sup>consultations required by sub-paragraphs (a)(aa)] of paragraph 2 above shall precede the publication of the notice required by sub-paragraph (b) of that paragraph.
- (2) The notice required by paragraph 2(b) above—
- (a) shall be published in two successive weeks in the London Gazette and in one or more local newspapers circulating in the locality in which the area affected is situated;
  - (b) shall state that the Secretary of State proposes to make the order, describing the area affected and the effect of the order; and
  - (c) shall indicate where (in accordance with paragraphs 4 and 5 below) a copy of the draft order and of the map to which it refers may be inspected.

#### Textual Amendments

- F6** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 69\(3\)](#)

- 4 Copies of the draft order and of the map to which it refers—
- (a) shall be deposited with each of the local authorities concerned on or before the date on which notice of the Secretary of State's proposal to make the order is first published in accordance with paragraph 3(2)(a) above; and

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- [<sup>F7</sup>(aa) shall be sent to the Commission (if the area which would be designated by the order is situated in England); and]
- (b) shall be kept available for public inspection by each of those authorities, free of charge, at reasonable hours and at a convenient place, until the Secretary of State makes the order or notifies the local authority in question that he has determined not to make it.

#### Textual Amendments

**F7** Para. 4(aa) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 69(4)**

- 5 Copies of the draft order and of the map to which it refers shall similarly be kept available by the Secretary of State, until he makes the order or determines not to make it.
- 6 The Secretary of State may make the order, either without modifications or with such modification only as consists in reducing the area affected, at any time after the end of the period of six weeks beginning with the date on which notice of his proposal to make the order is first published in accordance with paragraph 3(2)(a) above.
- 7 On making the order, the Secretary of State shall—
- (a) publish notice in two successive weeks in the London Gazette and in one or more local newspapers circulating in the locality in which the area affected is situated, stating that the order has been made and describing the area affected and the effect of the order; and
- (b) deposit a copy of the order and of the map to which it refers with each local authority concerned. [<sup>F8</sup>and
- (c) send to the Commission a copy of the order and of the map to which it refers (if the area designated is situated in England).]

#### Textual Amendments

**F8** Para. 7(c) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 69(5)**

#### *Designation orders by a local authority*

- 8 (1) A designation order made by a local authority shall describe by reference to a map the area affected.
- (2) The map shall be to such a scale, and the order in such form as may be prescribed.
- 9 Before making a designation order a local authority shall—
- (a) consult any other local authority concerned; and
- (b) publish notice of their proposal to make the order;
- in accordance with paragraph 10 below.
- [<sup>F9</sup>9A Before making a designation order a local authority shall notify the Commission of their proposal to make the order, if the area which would be designated by the order is situated in England.]

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**Textual Amendments**

**F9** Para. 9A inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, Sch. 4 para. 69(6)

- 10 (1) The consultation required by sub-paragraph (a) of paragraph 9 above shall precede the publication of the notice required by sub-paragraph (b) of that paragraph.
- (2) The notice required by paragraph 9(b) above shall be in the prescribed form and shall otherwise comply with paragraph 3(2) above (with the necessary modifications).
- 11 Copies of the draft order and of the map to which it refers—
- (a) shall be deposited with each of the local authorities concerned (other than the local authority proposing to make the order) on or before the date on which notice of the proposal to make the order is first published in accordance with paragraph 3(2)(a) above as applied by paragraph 10 above; and
- (b) shall be kept available for public inspection by each of the local authorities concerned, free of charge at reasonable hours and at a convenient place, until the local authority proposing to make the order either make it or determine not to make it and, in the case of any other local authority concerned, notify that local authority of their determination.
- 12 The local authority may make the order, either without modifications or with such modification only as consists in reducing the area affected, and submit it to the Secretary of State for confirmation, at any time after the end of the period of six weeks beginning with the date on which notice of their proposal to make the order is first published in accordance with paragraph 3(2)(a) above as applied by paragraph 10 above.
- 13 A designation order made by a local authority shall not take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order either without modifications or with such modification only as consists in reducing the area affected.
- 14 If the Secretary of State confirms the order the local authority shall on being notified that the order has been confirmed—
- (a) publish notice of the making of the order in the manner and form prescribed; and
- (b) deposit a copy of the order and of the map to which it refers with any other local authority concerned. <sup>F10</sup>and
- (c) send to the Commission a copy of the order and of the map to which it refers, if the area designated is situated in England.]

**Textual Amendments**

**F10** Para. 14(c) inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, Sch. 4 para. 69(7)

- 15 The Secretary of State may by regulations prescribe the procedure to be followed by a local authority in submitting a designation order for confirmation by the Secretary of State.



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### *[<sup>F11</sup> Designation orders by the Commission]*

#### **Textual Amendments**

**F11** Para. 15A inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 6, **Sch. 2 para. 2(4)**

- [<sup>F12</sup>15A Paragraphs 8, 9, 10 to 13, 14(a) and (b) and 15 above shall have effect in relation to a designation order made by the Commission as if—
- (a) in paragraphs 8(1), 12, 13 and 15 the references to a local authority were a reference to the Commission;
  - (b) in paragraphs 9 and 14 the first reference to a local authority were a reference to the Commission, and the word “other” were omitted; and
  - (c) in paragraph 11—
    - (i) in sub-paragraph (a) the words in brackets were omitted; and
    - (ii) in sub-paragraph (b) the reference to the local authority proposing to make the order were a reference to the Commission, and the word “other” were omitted.]

#### **Textual Amendments**

**F12** Para. 15A inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 6, **Sch. 2 para. 2(4)**

### *Operation of designation orders*

- 16 (1) A designation order made by the Secretary of State shall not come into operation until the end of the period of six months beginning with the date on which it is made.
- (2) A designation order made by a local authority and confirmed by the Secretary of State shall not come into operation until the end of the period of six months beginning with the date on which it is confirmed.

### *Variation and revocation of designation orders*

- 17 (1) An order varying or revoking a designation order shall describe by reference to a map the area affected by the designation order and (in the case of an order varying a designation order) the reduction of that area made by the order.
- (2) The map shall be to such a scale, and the order in such form, as the Secretary of State considers appropriate.
- 18 Before and on making an order varying or revoking a designation order the Secretary of State shall follow the procedure laid down for the making by him of a designation order, and paragraphs 2 to 7 above shall accordingly apply in any such case (taking references to the area affected as references to the area affected by the designation order).

### *Scotland*

- 19 In relation to a designation order relating to an area in Scotland, references in this Schedule to the London Gazette shall be construed as references to the Edinburgh Gazette.

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### Interpretation

- 20 (1) In this Schedule “the area affected” means, in relation to a designation order, the area to which the order for the time being relates.
- (2) For the purposes of this Schedule a local authority is a local authority concerned in relation to a designation order (or in relation to an order varying or revoking a designation order) if the area affected by the designation order, or any part of that area, is within the area of that local authority.

## SCHEDULE 3

Section 64(1).

### TRANSITIONAL PROVISIONS

- 1 (1) Where an interim preservation notice is in force with respect to any monument immediately before the commencement of this Act, sections 10(3)(a) and (c) and 12(1), (2)(b), (3)(b) and (4) of the <sup>M6</sup>Historic Buildings and Ancient Monuments Act 1953 shall continue to apply to the notice and monument respectively as if this Act had not been passed, unless and until the monument is included in the Schedule under section 1(3) of this Act.
- (2) So long as by virtue of sub-paragraph (1) above section 12(1) of the Historic Buildings and Ancient Monuments Act 1953 continues to apply after the commencement of this Act to any monument which is under guardianship by virtue of this Act, section 28 of this Act shall have effect in relation to that monument as if for the reference in subsection (2) of that section to a scheduled monument consent there were substituted a reference to the consent of the Secretary of State under section 12(1).

#### Marginal Citations

**M6** 1953 c. 49.

- 2 (1) Subject to sub-paragraph (2) below, where a guardianship order made under section 12(5) of the <sup>M7</sup>Historic Buildings and Ancient Monuments Act 1953 is in force immediately before the commencement of this Act that order shall continue in force notwithstanding the repeal by this Act of section 12(5), and the provisions of this Act shall apply while the order is in force as if the Secretary of State had been constituted guardian of the monument by a deed not containing any restriction not contained in the order and executed by all the persons who, at the time when the order was made, were able by deed to constitute the Secretary of State guardian of the monument.
- (2) A guardianship order continued in force by this paragraph may be revoked at any time by the Secretary of State.

#### Marginal Citations

**M7** 1953 c. 49.

- 3 (1) Where within the period of three months immediately preceding the commencement of this Act a person has given notice in accordance with section 6(2) of the <sup>M8</sup>Ancient

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Monuments Act 1931 of his intention to execute or permit to be executed any such work in relation to a monument as is there mentioned the notice shall have effect for the purposes of this Act as an application for scheduled monument consent for the execution of that work.

- (2) Where—
- (a) a monument becomes a scheduled monument under this Act; and
  - (b) before it is included in the Schedule any person has applied for the consent of the Secretary of State for the execution of any works affecting the monument which would otherwise be prohibited by section 12(1) of the <sup>M9</sup>Historic Buildings and Ancient Monuments Act 1953 (consent required for certain works in relation to a monument subject to an interim preservation notice or preservation order);

then, in a case where the Secretary of State's decision on the application has not been notified to the person in question before the monument is included in the Schedule, the application shall have effect for the purposes of this Act as an application for scheduled monument consent for the execution of those works.

- (3) The Secretary of State shall consider and determine any application for scheduled monument consent which has effect as such by virtue of this paragraph notwithstanding that any requirements of regulations made by virtue of paragraph 1 or any requirements of paragraph 2 of Schedule 1 to this Act are not satisfied in relation to that application.

#### Marginal Citations

- M8** 1931 c. 16.  
**M9** 1953 c. 49.

- 4 (1) Subject to the following provisions of this paragraph, where a person has given notice as mentioned in paragraph 3(1) above with respect to any work more than three months before the commencement of this Act, the notice shall have effect for the purposes of this Act as if it were a scheduled monument consent for the execution of that work granted by the Secretary of State under section 2 of this Act on the date of the commencement of this Act (and it may be modified or revoked by the Secretary of State under section 4 of this Act accordingly).
- (2) This paragraph does not apply in any case where an interim preservation notice or a preservation order is in force with respect to the monument in question immediately before the commencement of this Act.
- (3) A scheduled monument consent which has effect as such by virtue of this paragraph shall not cease to have effect by virtue of section 4(1) of this Act if any of the work to which it relates has been executed or started before the commencement of this Act.
- 5 (1) Subject to sub-paragraph (2) below, where—
- (a) a monument becomes a scheduled monument under this Act; and
  - (b) before it is included in the Schedule the Secretary of State has granted consent for the execution of any works affecting the monument under section 12(1) of the <sup>M10</sup>Historic Buildings and Ancient Monuments Act 1953; that consent shall have effect for the purposes of this Act as if it were a scheduled monument consent for the execution of those works granted by the Secretary of State under section 2 of this Act on the date when the monument became a scheduled

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monument (and it may be modified or revoked by the Secretary of State under section 4 of this Act accordingly).

- (2) A scheduled monument consent which has effect as such by virtue of this paragraph shall not cease to have effect by virtue of section 4(1) of this Act if any of the works to which it relates have been executed or started before the monument becomes a scheduled monument.

**Marginal Citations**

**M10** 1953 c. 49.

- 6 (1) Section 13(2) of this Act shall not apply to any monument of which the Secretary of State or a local authority have been constituted guardians before the commencement of this Act, except where either—
- (a) the guardianship deed provided for control and management of the monument by the guardians; or
  - (b) the persons for the time being immediately affected by the operation of the guardianship deed have consented to the exercise of control and management of the monument by the guardians.
- (2) Section 19(1) of this Act shall not apply to any monument of which the <sup>M11</sup>Secretary of State or a local authority had been constituted guardians before 15th August 1913 (being the date of commencement of the Ancient Monuments Consolidation and Amendment Act 1913), except where either—
- (a) the guardianship deed provided for public access to the monument; or
  - (b) the persons for the time being immediately affected by the operation of the guardianship deed have consented to the public having access to the monument.
- (3) Where any land adjoining or adjacent to a monument (in addition to its site) was acquired or taken into guardianship before the commencement of this Act under any enactment repealed by this Act, it shall be regarded for the purposes of this Act as having been acquired or taken into guardianship for a purpose relating to that monument by virtue of section 15 of this Act.

**Marginal Citations**

**M11** 1913 c. 32.

- 7 Notwithstanding the repeal by this Act of the <sup>M12</sup>Field Monuments Act 1972, the provisions of that Act shall continue to apply in relation to any acknowledgement payment agreement within the meaning of that Act which is in force immediately before the commencement of this Act.

**Marginal Citations**

**M12** 1972 c. 43.

- 8 Any reference in any document (including an enactment) to an enactment repealed by this Act shall be construed as or (as the case may be) as including a reference to the corresponding enactment in this Act.

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- 9 Nothing in the preceding provisions of this Schedule shall be construed as prejudicing the effect of section 16 or 17 of the <sup>M13</sup>Interpretation Act 1978 (effect of repeals).

**Marginal Citations**

**M13** 1978 c. 30.

- 10 In this Schedule—  
“interim preservation notice” means a notice served under section 10(1) of the <sup>M14</sup>Historic Buildings and Ancient Monuments Act 1953; and  
“preservation order” means an order made under section 11(1) of that Act.

**Marginal Citations**

**M14** 1953 c. 49.

<sup>X1</sup>SCHEDULE 4

Section 64(2).

CONSEQUENTIAL AMENDMENTS

**Editorial Information**

**X1** The text of Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 1 ..... **F13**

**Textual Amendments**

**F13** Sch. 4 para. 1 repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), [Sch. 17 para. 35\(1\)](#), [Sch. 18](#)

- 2 In section 47(d) of the <sup>M15</sup>Coast Protection Act 1949 (saving for law relating to ancient monuments), for the words “the Ancient Monuments Acts 1913 to 1931” there shall be substituted the words “the Ancient Monuments and Archaeological Areas Act 1979”.

**Marginal Citations**

**M15** 1949 c. 74

- 3 (1) In sections 5(2)(b) and 8(1)(c) of the <sup>M16</sup>Historic Buildings and Ancient Monuments Act 1953, for the words “the Ancient Monuments Consolidation and Amendment Act 1913” there shall be substituted the words “the Ancient Monuments and Archaeological Areas Act 1979”.

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- (2) In section 8(4) of that Act, for the words “the said Act of 1913” there shall be substituted the words “the said Act of 1979”.

#### Marginal Citations

**M16** 1953 c. 49.

F14

#### Textual Amendments

**F14** Sch. 4 para. 4 repealed (30.11.1991) by Coal Mining Subsidence Act 1991 (c. 45, SIF 86), s. 53(2), **Sch.8** (with Sch. 7); S.I. 1991/2508, **art.2**

- 5 In section 6(4)(b) of the <sup>M17</sup>Land Powers (Defence) Act 1958 (restriction on use of land for training purposes)—
- (a) for the words from “a list” to “1913” there shall be substituted the words “the Schedule compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979”; and
- (b) the words from “or which” to “1953” shall cease to have effect, except in relation to a monument to which paragraph 1(1) of Schedule 3 to this Act applies.

#### Marginal Citations

**M17** 1958 c.30.

- 6 In section 17(2) of the <sup>M18</sup>Building (Scotland) Act 1959 (requirements with respect to operations under that Act to be subject to special controls for ancient monuments and historic buildings)—
- (a) for paragraph (a) there shall be substituted the following paragraph —
- “(a) a building which is for the time being included in the Schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979”;
- (b) paragraph (d) and the words “or, as the case may be, the said Act of 1953” shall cease to have effect, except in relation to a monument to which paragraph 1(1) of Schedule 3 to this Act applies ; and
- (c) for the words “the said Act of 1931” there shall be substituted the words “the said Act of 1979 or”.

#### Marginal Citations

**M18** 1959 c.24.

- 7 In section 3(3)(a) of the <sup>M19</sup>Flood Prevention (Scotland) Act 1961 (Act not to authorise contraventions of certain enactments), for the words “the Ancient

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Monuments Acts 1913 to 1953” there shall be substituted the words “the Ancient Monuments and Archaeological Areas Act 1979”.

**Marginal Citations**

**M19** 1961 c.41.

- 8 In section 2(5) of the <sup>M20</sup>Faculty Jurisdiction Measure 1964 (limit on authority conferred by faculty for demolition of church), for the words “the Ancient Monuments Acts 1913 to 1953” there shall be substituted the words “the Ancient Monuments and Archaeological Areas Act 1979”.

**Marginal Citations**

**M20** 1964 No. 5.

- 9 In section 7(8) of the <sup>M21</sup>Mines (Working Facilities and Support) Act 1966 (right to apply for restrictions on working minerals to secure support)—
- (a) for the words “the Ancient Monuments Consolidation and Amendment Act 1913” there shall be substituted the words “the Ancient Monuments and Archaeological Areas Act 1979”; and
- (b) the words “or Part II of the Historic Buildings and Ancient Monuments Act 1953” shall be omitted.

**Marginal Citations**

**M21** 1966 c.4.

- 10 ..... <sup>F15</sup>

**Textual Amendments**

**F15** Sch. 4 para. 10 repealed for financial years beginning in or after 1990 by [Local Government Finance Act 1988](#) (c. 41, SIF 81:1), ss. 142, 149, [Sch. 13 Pt. 1](#) (subject to any saving under s. 117(8) of that 1988 Act)

- 11 ..... <sup>F16</sup>

**Textual Amendments**

**F16** Sch. 4 para. 11 repealed by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 3, [Sch. 1](#)

- 12 In sections 54(1) and 56(2) of the <sup>M22</sup>Town and Country Planning (Scotland) Act 1972 (exclusion of certain buildings from control of works under sections 53 and 56 respectively) for paragraphs (b) and (c) there shall be substituted the following paragraph —

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“(b) a building for the time being included in the Schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979”.

**Marginal Citations**

**M22** 1972 c.52.

13 In section 131(2) of the <sup>M23</sup> Local Government Act 1972 (general powers of local authority with respect to dealings in land not to affect certain enactments), for paragraph (f) there shall be substituted the following paragraph —

“(f) the Ancient Monuments and Archaeological Areas Act 1979”.

**Marginal Citations**

**M23** 1972 c. 70.

14 In section 182(1) of the <sup>M24</sup> Local Government (Scotland) Act 1973 (functions of local authorities under the Ancient Monuments Acts to be district planning functions), for the words “the Ancient Monuments Acts 1913 and 1931” there shall be substituted the words “the Ancient Monuments and Archaeological Areas Act 1979”.

**Marginal Citations**

**M24** 1973 c. 65.

15 ..... <sup>F17</sup>

**Textual Amendments**

**F17** Sch. 4 para. 15 repealed by Capital Transfer Tax Act 1984 (c. 51, SIF 65), s. 277, **Sch. 9**

<sup>F18</sup>16 In section 111 of the <sup>M25</sup> Land Drainage Act 1976 (protection of ancient monuments), for the words “the Ancient Monuments Acts 1913 to 1972” there shall be substituted the words “the Ancient Monuments and Archaeological Areas Act 1979”.

**Textual Amendments**

**F18** Sch. 4 para. 16 repealed (E.W.)(1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3, 4(2), **Sch. 3 Part I** (with Sch. 2 paras. 10, 14(1), 15)

**Marginal Citations**

**M25** 1976 c. 70



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X<sup>2</sup>SCHEDULE 5

Section 64(3).

ENACTMENTS REPEALED

**Editorial Information**

**X2** The text of Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

SCHEDULE 5  
 ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
45 & 46 Vict. c. 73.	The Ancient Monuments Protection Act 1882.	The Schedule.
3 & 4 Geo. 5. c. 32.	The Ancient Monuments Consolidation and Amendment Act 1913.	The whole Act.
21 & 22 Geo. 5. c. 16.	The Ancient Monuments Act 1931.	The whole Act.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946.	In section 1(2), paragraph (c) and the word "or" immediately preceding it. In section 8(1), the definition of "ancient monument".
10 & 11 Geo. 6. c. 42.	The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.	In section 1(2), paragraph (c) and the word "or" immediately preceding it. In section 7(1), the definition of "ancient monument".
1 & 2 Eliz. 2. c. 49.	The Historic Buildings and Ancient Monuments Act 1953.	In Schedule 1, paragraph 12. Parts II and III. Section 20. Section 22(2). The Schedule.
6 & 7 Eliz. 2. c. 30.	The Land Powers (Defence) Act 1958.	In section 6(4)(b), the words "from" or which "to " 1953 "
7 & 8 Eliz. 2. c. 24.	The Building (Scotland) Act 1959.	In section 17(2), paragraph (d) and the words "or, as the case may be, the said Act of 1953".
1966 c. 4.	The Mines (Working Facilities and Support) Act 1966.	In section 7(8), the words from "or Part II" to " 1953 "
1967 c. 9.	The General Rate Act 1967.	In paragraph 2(d) of Schedule 1, the words from "is the" to "or".
1967 c. 80.	The Criminal Justice Act 1967.	In Schedule 3, the entries relating to the Ancient Monuments Consolidation and Amendment Act 1913 and the Ancient Monuments Act 1931.
1968 c. 72.	The Town and Country Planning Act 1968.	Section 59.
1969 c. 30.	The Town and Country Planning (Scotland) Act 1969.	Section 59.
1971 c. 78.	The Town and Country Planning Act 1971.	In Schedule 23, the entry relating to the Town and Country Planning Act 1968.
1972 c. 43.	The Field Monuments Act 1972.	The whole Act.

Chapter	Short Title	Extent of Repeal
1972 c. 52.	The Town and Country Planning (Scotland) Act 1972.	In Schedule 21, the entry relating to the Town and Country Planning (Scotland) Act 1969.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 23, paragraph 1.
1974 c. 32.	The Town and Country Amenities Act 1974.	In section 13(1) paragraph (c) and the word "and" immediately preceding that paragraph.
1976 c. 57.	The Local Government (Miscellaneous Provisions) Act 1976.	In Schedule 1, paragraph 5.
1976 c. 75.	The Development of Rural Wales Act 1976.	In Schedule 4, paragraph 5.
1978 c. 52.	The Wales Act 1978.	In Schedule 11, paragraph 2.

Nothing in this Schedule shall affect the operation of any enactment in relation to a monument to which paragraph 1(1) of Schedule 3 to this Act applies.

**Status:**

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**Changes to legislation:**

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