



Ancient Monuments and Archaeological Areas Act 1979

1979 CHAPTER 46

PART I

ANCIENT MONUMENTS

Protection of scheduled monuments

8 Recovery of compensation under section 7 on subsequent grant of consent.

- (1) Subject to the following provisions of this section, this section applies—
- (a) in a case where compensation under section 7 of this Act was paid in consequence of the refusal of a scheduled monument consent, if the Secretary of State [^{F1}or Historic Environment Scotland] subsequently grants scheduled monument consent for the execution of all or any of the works in respect of which the compensation was paid; and
 - (b) in a case where compensation under that section was paid in consequence of the granting of a scheduled monument consent subject to conditions, if the Secretary of State [^{F1}or Historic Environment Scotland] subsequently so modifies that consent that those conditions, or any of them, cease to apply to the execution of all or any of the works in respect of which the compensation was paid or grants a new consent in respect of all or any of those works free from those conditions, or any of them.
- (2) This section does not apply in any case unless—
- (a) the compensation paid exceeded £20; and
 - [^{F2}(b) the requirement mentioned in subsection (2A) below is fulfilled]
- [^{F3}(2A) The requirement is that—
- (a) where the monument in question is situated in England, the Commission have caused notice of the payment of compensation to be deposited with the council of each district or London borough in which the monument is situated or

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- (where it is situated in the City of London, the Inner Temple or the Middle Temple) with the Common Council of the City of London;
- (b) where the monument in question is situated in Scotland, the Secretary of State [^{F4}or Historic Environment Scotland] has caused such notice to be deposited with the local authority of each area in which the monument is situated;
- (c) where the monument in question is situated in Wales, the Secretary of State has caused such notice to be deposited with the council of each [^{F5}county or county borough] in which the monument is situated.]
- (3) In granting or modifying a scheduled monument consent in a case to which this section applies the Secretary of State [^{F6}or Historic Environment Scotland] may do so on terms that no works in respect of which the compensation was paid are to be executed in pursuance of the consent until the recoverable amount has been repaid to the Secretary of State [^{F6}or Historic Environment Scotland] or secured to his [^{F7}or its] satisfaction [^{F8}or (as the case may be) has been repaid to the Commission or secured to their satisfaction].
- Subject to subsection (4) below, in this subsection “the recoverable amount” means such amount (being an amount representing the whole of the compensation previously paid or such part thereof as the Secretary of State [^{F6}or Historic Environment Scotland] thinks fit) as the Secretary of State [^{F6}or Historic Environment Scotland] may specify in giving notice of his [^{F7}or its] decision on the application for scheduled monument consent or (as the case may be) in the direction modifying the consent.
- (4) Where a person who has an interest in the whole or any part of a monument is aggrieved by the amount specified by the Secretary of State [^{F9}or Historic Environment Scotland] as the recoverable amount for the purposes of subsection (3) above, he may require the determination of that amount to be referred to the [^{F10}Upper Tribunal or] (in the case of a monument situated in Scotland) to the Lands Tribunal for Scotland; and in any such case the recoverable amount for the purposes of that subsection shall be such amount (being an amount representing the whole or any part of the compensation previously paid) as that Tribunal may determine to be just in the circumstances of the case.
- (5) A notice deposited under subsection (2)(b) above shall specify the decision which gave rise to the right to compensation, the monument affected by the decision, and the amount of the compensation.
- (6) A notice so deposited in the case of a monument situated in England and Wales shall be a local land charge; and for the purposes of the ^{M1}Local Land Charges Act 1975 the council with whom any such notice is deposited shall be treated as the originating authority as respects the charge thereby constituted.
- (7) A notice so deposited in the case of any monument situated in Scotland which is heritable may be recorded in the Register of Sasines.

Textual Amendments

- F1** Words in s. 8(1) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 2 para. 12\(a\)](#) (with [ss. 29, 30](#)); [S.S.I. 2015/31](#), art. 2, sch.; [S.S.I. 2015/196](#), art. 2, sch.
- F2** S. 8(2)(b) substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 34\(2\)\(5\)](#)
- F3** S. 8(2A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 34\(3\)\(5\)](#)

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- F4** Words in s. 8(2A) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 2 para. 12\(b\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F5** Words in s. 8(2A)(c) substituted (1.4.1996) by 1994 c. 19, s. 66(6), [Sch. 16 para. 56\(1\)](#) (with ss. 54(5), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 4, [Sch.2](#)
- F6** Words in s. 8(3) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 2 para. 12\(c\)\(i\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F7** Words in s. 8(3) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 2 para. 12\(c\)\(ii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F8** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 34\(4\)\(5\)](#)
- F9** Words in s. 8(4) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 2 para. 12\(d\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F10** Words in s. 8(4) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 127](#) (with [Sch. 5](#))

Marginal Citations

- M1** 1975 c. 76.

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Changes and effects yet to be applied to :

- s. 8(2A)(c) omitted by [2023 asc 3 Sch. 13 para. 26\(a\)](#)
- s. 8(6) words omitted by [2023 asc 3 Sch. 13 para. 26\(b\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3A) inserted by [2023 asc 3 Sch. 13 para. 20\(b\)](#)
- s. 1AA-1AE omitted by [2023 asc 3 Sch. 13 para. 21](#)
- s. 7(4A) inserted by [2016 anaw 4 s. 10\(2\)](#)
- s. 33(1A) inserted by [2023 asc 3 Sch. 13 para. 35\(a\)](#)