



# Historic Environment Scotland Act 2014

2014 asp 19

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 4th November 2014 and received Royal Assent on 9 December 2014**

An Act of the Scottish Parliament to establish Historic Environment Scotland; to make minor amendments to the law relating to the historic environment; and for connected purposes.

## PART 1

### HISTORIC ENVIRONMENT SCOTLAND

#### *Establishment*

#### **1 Historic Environment Scotland**

- (1) A body corporate to be known as Historic Environment Scotland (in Gaelic, Àrainneachd Eachdraidheil na h-Alba) is established.
- (2) Historic Environment Scotland has the functions conferred on it by or under this Act and any other enactment.
- (3) Schedule 1 makes further provision about the status, membership, procedures and powers of Historic Environment Scotland.

#### **Commencement Information**

- I1** [S. 1](#) in force at 19.1.2015 for specified purposes by [S.S.I. 2014/368](#), [art. 2](#)
- I2** [S. 1](#) in force at 27.2.2015 for specified purposes by [S.S.I. 2015/31](#), [art. 2](#), [Sch.](#)
- I3** [S. 1](#) in force at 1.10.2015 in so far as not already in force by [S.S.I. 2015/196](#), [art. 2](#), [Sch.](#) (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

*Changes to legislation: There are currently no known outstanding effects for the Historic Environment Scotland Act 2014. (See end of Document for details)*

### *General functions*

## **2 Functions of Historic Environment Scotland**

- (1) Historic Environment Scotland has the general function of investigating, caring for and promoting Scotland's historic environment.
- (2) In exercising its general function, Historic Environment Scotland has the following particular functions—
  - (a) identifying and recording the historic environment,
  - (b) understanding and interpreting the historic environment,
  - (c) learning about, and educating others about, the historic environment,
  - (d) protecting and managing the historic environment,
  - (e) conserving and enhancing the historic environment.
- (3) Historic Environment Scotland also has the function of managing its collections as a national resource for reference, study and research.
- (4) In exercising that function, Historic Environment Scotland has the following particular functions—
  - (a) preserving, conserving and developing its collections,
  - (b) making the collections accessible to the public and to persons wishing to carry out study and research,
  - (c) exhibiting and interpreting objects in the collections.
- (5) Historic Environment Scotland, in exercising its functions, is to do so with a view to—
  - (a) encouraging education and research,
  - (b) promoting and contributing to understanding and enjoyment of the historic environment and of its collections,
  - (c) promoting the diversity of persons accessing the historic environment and its collections,
  - (d) offering and promoting leadership in relation to the historic environment,
  - (e) working in collaboration with other persons (whether in partnership or in other ways),
  - (f) contributing, as appropriate, to the development and delivery of policies and strategies in relation to the historic environment.
- (6) Historic Environment Scotland may support and assist any other person exercising functions in relation to the historic environment of a similar nature to its functions.
- (7) Support and assistance under subsection (6) may take the form of financial support and assistance.
- (8) In exercising its functions, Historic Environment Scotland must have regard—
  - (a) to any relevant policy or strategy published by the Scottish Ministers, and
  - (b) as may be appropriate in the circumstances, to the interests of local communities.

#### **Commencement Information**

**I4** [S. 2](#) in force at 27.2.2015 for specified purposes by [S.S.I. 2015/31](#), [art. 2](#), [Sch.](#)

*Changes to legislation: There are currently no known outstanding effects for the Historic Environment Scotland Act 2014. (See end of Document for details)*

- 15** S. 2 in force at 1.10.2015 in so far as not already in force by S.S.I. 2015/196, art. 2, Sch. (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

*Functions in relation to property*

**3 Delegation of functions in relation to properties in care**

- (1) The Scottish Ministers may, to such extent and subject to such conditions as they consider appropriate, delegate the exercise of any of their functions in relation to properties in care to—
  - (a) Historic Environment Scotland,
  - (b) any prescribed person Ministers consider appropriate.
- (2) Subsection (1) does not apply to any function of making, confirming or approving subordinate legislation.
- (3) A function arising from an agreement may be delegated under subsection (1) despite any prohibition or restriction in the agreement on delegation of the function.
- (4) A delegation under subsection (1) may be made in relation to a particular property in care, a group of properties in care or all properties in care.
- (5) Where a function delegated under subsection (1) relates to the making or receiving of charges of any kind, any revenue received as a result of the exercise of that function is revenue of the person to whom the function is delegated unless provision to the contrary is made in the delegation.
- (6) The delegation of a function under subsection (1) does not affect—
  - (a) the ability of the Scottish Ministers to exercise the function,
  - (b) their responsibility for that function.
- (7) Delegations under subsection (1)—
  - (a) must be in writing,
  - (b) may be varied or revoked at any time.
- (8) The Scottish Ministers must publish delegations under subsection (1).
- (9) In this section—

“functions” includes functions—
  - (a) conferred by or under this Act or any other enactment, or
  - (b) arising from any agreement,

“prescribed”, in relation to a person to whom the Scottish Ministers may delegate functions under subsection (1)(b), means prescribed by Ministers by order,

“property in care” has the meaning given by section 4.

**Commencement Information**

- 16** S. 3 in force at 1.10.2015 by S.S.I. 2015/196, art. 2, Sch. (with transitional provisions and savings in S.S.I. 2015/239, arts. 2-19)

*Changes to legislation: There are currently no known outstanding effects for the Historic Environment Scotland Act 2014. (See end of Document for details)*

#### 4 Properties in care

- (1) The Scottish Ministers must compile and maintain a list of properties in care in relation to which they may delegate functions under section 3(1).
- (2) The Scottish Ministers may modify the list compiled and maintained under subsection (1) by—
  - (a) including a property in the list,
  - (b) removing a property from the list.
- (3) The Scottish Ministers must publish the list compiled and maintained under subsection (1).
- (4) In this section “property in care” means—
  - (a) any heritable property which is of historical, archaeological, architectural or cultural significance or interest, and
  - (b) which is owned or occupied by, under the guardianship of, or otherwise under the management and control of the Scottish Ministers.

#### Commencement Information

- I7** [S. 4](#) in force at 1.10.2015 by [S.S.I. 2015/196](#), [art. 2](#), [Sch.](#) (with transitional provisions and savings in [S.S.I. 2015/239](#), arts. 2-19)

#### 5 Power of entry to investigate the historic environment

- (1) A person authorised in writing by Historic Environment Scotland may at any reasonable time enter any land for the purpose of inspecting the land (including any building or other structure on the land) with a view to identifying and recording any matters of historical, archaeological, architectural or cultural significance or interest.
- (2) But an authorised person may not enter—
  - (a) any land which is occupied unless at least 14 days' notice of the intended entry has been given to the occupier,
  - (b) any building or part of a building occupied as a dwelling house without the consent of the occupier.
- (3) An authorised person may, on entering any land, take with the person—
  - (a) any other person the authorised person considers appropriate, and
  - (b) any equipment or materials required for any purpose for which the power of entry is being exercised.
- (4) A person seeking to enter any land in exercise of the power of entry under this section must, if so required by or on behalf of the owner or occupier of the land, produce evidence of the person's authority before entering.
- (5) A person commits an offence if the person without reasonable excuse intentionally obstructs a person exercising the power of entry under this section.
- (6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

*Changes to legislation: There are currently no known outstanding effects for the Historic Environment Scotland Act 2014. (See end of Document for details)*

#### Commencement Information

- I8** [S. 5](#) in force at 1.10.2015 by [S.S.I. 2015/196](#), [art. 2](#), [Sch.](#) (with transitional provisions and savings in [S.S.I. 2015/239](#), arts. 2-19)

### *Functions in relation to collections and objects*

## **6 Acquisition, deposit and disposal of objects**

- (1) Historic Environment Scotland may—
  - (a) acquire (by purchase, exchange or gift),
  - (b) accept on deposit,any object which it considers it is desirable to add to its collections.
- (2) The powers in subsection (1) are in addition to any other powers or means of acquisition or acceptance on deposit that Historic Environment Scotland has.
- (3) Historic Environment Scotland may dispose of any object from its collections (including any object it has created) if—
  - (a) the object is a duplicate of, or similar to, another object in the collections,
  - (b) Historic Environment Scotland considers that the object is not required for the purposes of the collections,
  - (c) because of damage, deterioration or infestation by destructive organisms, the object is no longer of use for the purposes of the collections,
  - (d) the object is hazardous,
  - (e) in any other case, the Scottish Ministers agree to the disposal.
- (4) Disposal under subsection (3) may be by sale, exchange, gift, return or destruction.
- (5) The power in subsection (3) is in addition to any other powers of disposal that Historic Environment Scotland has.
- (6) Where an object is subject to a prohibition or restriction on disposal (including one imposed by virtue of paragraph 5(5) of schedule 5), Historic Environment Scotland may dispose of the object under subsection (3) in a manner inconsistent with the prohibition or restriction only—
  - (a) if the person having the right to enforce the prohibition or restriction consents,
  - (b) in the circumstances mentioned in subsection (3)(c), if Historic Environment Scotland is unable, despite taking all reasonable steps, to ascertain the name and contact details of any person having that right, or
  - (c) in the circumstances mentioned in subsection (3)(d).
- (7) In this section and in section 7, references to Historic Environment Scotland's collections are to collections which are owned by, in the custody of, or otherwise under the management and control of Historic Environment Scotland (but do not include collections in relation to which Historic Environment Scotland has functions by virtue of a delegation by the Scottish Ministers under section 8).