

STATUTORY INSTRUMENTS

1991 No. 2647

ANCIENT MONUMENTS

The Ancient Monuments (Claims for Compensation) (Wales) Regulations 1991

<i>Made</i>	- - - -	<i>18th November 1991</i>
<i>Laid before Parliament</i>		<i>29th November 1991</i>
<i>Coming into force</i>	- -	<i>20th December 1991</i>

The Secretary of State, in exercise of the powers conferred on him by sections 47, 60(1) and 61(1)(1) of the Ancient Monuments and Archaeological Areas Act 1979(2), hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These regulations may be cited as the Ancient Monuments (Claims for Compensation) (Wales) Regulations 1991, and shall come into force on 20th December 1991.

(2) In these Regulations, “the Act” means the Ancient Monuments and Archaeological Areas Act 1979.

(3) These Regulations apply only in relation to monuments or land, or to chattels on land, in Wales.

Claims for compensation under sections 7, 9 or 46 of the Ancient Monuments and Archaeological Areas Act 1979

2.—(1) A claim for compensation under sections 7, 9 or 46 of the Act shall be made in the form set out in the Schedule hereto, or in a form substantially to the like effect, and shall be delivered or sent by the recorded delivery service to the person against whom the claim is made.

(2) Subject as mentioned below, a claim for compensation under sections 7, 9 or 46 of the Act shall be made within a period of 6 months beginning with—

(a) in the case of a claim under section 7 of the Act, the date of refusal, or grant subject to conditions, of scheduled monument consent;

(b) in the case of a claim under section 9 of the Act—

(i) where subsection (2)(a) applies (scheduled monument consent granted by order under section 3 of the Act ceasing to apply), the date when, on an application for scheduled monument consent for the works in question, consent is refused, or is

(1) See the definition of “prescribed”.

(2) 1979 c. 46.

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granted subject to conditions other than those which previously applied under the order;

- (ii) where subsection (2)(b) applies (modification or revocation of a scheduled monument consent under section 4 of the Act), the date when the direction is given under section 4(3) of the Act;
- (iii) where subsection (2)(c) applies, the date when in accordance with paragraph 8 of Schedule 1 to the Act the works specified or indicated in a notice of proposed modification or revocation of scheduled monument consent under paragraph 5 of that Schedule cease to be authorised; or

(c) in the case of a claim under section 46 of the Act, the date on which the damage occurred, but in any particular case the Secretary of State may at any time extend the said period or allow further time within which a claim may be made.

18th November 1991

David Hunt
Secretary of State for Wales

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SCHEDULE

ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979 CLAIM FOR COMPENSATION UNDER SECTIONS 7, 9 OR 46 OF THE 1979 ACT

To: Name of the person against whom the claim is made (see footnote 1):

.....

1. Person making the claim ("the claimant")
(in BLOCK LETTERS):

Full Name

Address

If claimant is a limited company or other corporate body give registered or principal office.

Telephone No.

2. Address or location of the monument or land to which the claim relates:

An accurate plan should be supplied showing any area to which the claim relates.

3. (a) State claimant's interest in the land:

(b) State name and address of any other person known or believed to have an interest in the land and specify that interest:

4. Where the claim is under section 7 (compensation for refusal of scheduled monument consent)–

(a) give details of the date and the reference number (if known) of the refusal, or grant subject to conditions, of scheduled monument consent in relation to the works mentioned at (b) below:

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(b) (i) give a brief description of the works for which compensation is claimed (see footnote 2):

(ii) in the case of works to which section 7(2)(a) applies, give the following details in connection with the planning permission – the name of the authority by which it was granted; the date; the reference number (if known); and a brief description of the development for which planning permission was granted:

(iii) in the case of works to which section 7(2)(b) applies, give the reasons why it is considered the works do not constitute development, or constitute development such that planning permission is granted by a general development order:

(iv) in the case of works to which section 7(2)(c) applies, give a brief description of the relevant use of the monument immediately before the date of the application for scheduled monument consent:

(c) give details of the expenditure and any other loss or damage in respect of which the claim is made (see footnote 3):

5. Where the claim is under section 9 (compensation where works affecting a scheduled monument consent cease to be authorised – see footnote 4), give details of–

(a) the works which have ceased to be authorised:

(b) the order, direction or notice by virtue of which the works have ceased to be authorised (in a case to which section 9(2)(a) applies, also give details of the relevant refusal, or grant subject to conditions, of scheduled monument consent – see footnote 5):

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6. Where the claim is under section 46 (compensation for damage to land or chattels caused in the exercise of certain powers under the 1979 Act) (see footnote 6)–

(a) identify on the plan any land (including any building on it) which has been damaged and give particulars of that damage:

(b) specify any chattels on the land which have been damaged and give particulars of that damage:

(c) state the claimant's interest in any damaged chattels:

(d) state the name and address of any other person believed to have an interest in those chattels and (if known) state that interest:

(e) give brief details of the circumstances in which the damage took place and of the identity of the person (if known) who is believed to have caused the damage:

(f) give particulars of how the amount of the compensation claimed has been calculated:

7. I/We hereby claim the amount of £ (see footnote 7)

Signature of claimant or agent*

Date

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**If this claim form is being submitted by an agent state:*

Name of agent

Address of agent

Telephone No.

IMPORTANT: SERVICE OF THIS CLAIM FORM. This claim form is to be delivered or sent by the recorded delivery service to the person against whom the claim is made *within 6 months* of the decision, direction, notification or damage giving rise to the claim for compensation. The Secretary of State may, on request, in any particular case, extend this period. An application to extend this period should be made to the Secretary of State for Wales, Cadw Welsh Historic Monuments Executive Agency, Brunel House, 2 Fitzalan Road, Cardiff CF2 1UY.

Footnotes

1. Claims for compensation under sections 7 and 9 of the Ancient Monuments and Archaeological Areas Act 1979 concerning a monument situated in Wales should be made to the Secretary of State for Wales, Cadw Welsh Historic Monuments Executive Agency, Brunel House, 2 Fitzalan Road, Cardiff CF2 1UY.

Claims for compensation under section 46 of the 1979 Act should be made to the authority by or on whose behalf the power of entry, or other power, was exercised; except that where damage was caused in the exercise of any such power by a person holding appointment as the investigating authority for an area of archaeological importance under section 34 of the 1979 Act the claim shall be made to the Secretary of State for Wales, Cadw Welsh Historic Monuments Executive Agency, Brunel House, 2 Fitzalan Road, Cardiff CF2 1UY.

2. Section 7(2) of the 1979 Act provides that the following are works in respect of which compensation is payable—

- (a) works which are reasonably necessary for carrying out any development for which planning permission had been granted (otherwise than by a general development order) before the time when the monument in question became a scheduled monument and was still effective at the date of the application for scheduled monument consent;
- (b) works which do not constitute development, or constitute development such that planning permission is granted therefor by a general development order; and
- (c) works which are reasonably necessary for the continuation of any use of the monument for any purpose for which it was in use immediately before the date of the application for scheduled monument consent.

However, section 7(4) of the 1979 Act provides that compensation shall not be payable by virtue of section 7(2)(b) if the works in question or any of them would or might result in the total or partial demolition or destruction of the monument, unless those works consist solely of operations involved in or incidental to the use of the site of the monument for the purposes of agriculture or forestry (including afforestation).

3. Compensation payable under sections 7 or 9 of the 1979 Act in respect of any loss or damage consisting of depreciation of the value of an interest in the land is to be assessed on the basis of the rules set out in section 5 of the Land Compensation Act 1961 (section 27 of the 1979 Act).

Section 7(3), (5) and (6) provides limitations on the entitlement to compensation in certain circumstances.

4. Section 9(2) of the 1979 Act provides that the section only applies where the works cease to be authorised—

- (a) by virtue of the fact that a scheduled monument consent granted by order under section 3 of the 1979 Act ceases to apply to any scheduled monument (whether by virtue of variation or revocation of the order or by virtue of a direction under subsection (3) of that section); or
- (b) by virtue of the modification or revocation of a scheduled monument consent by a direction given under section 4 of the 1979 Act; or
- (c) in accordance with paragraph 8 of Schedule 1 to the 1979 Act by virtue of the service of a notice of proposed modification or revocation of a scheduled monument consent under paragraph 5 of that Schedule.

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5. Compensation is not payable under section 9(2)(a) of the 1979 Act unless, on an application for scheduled monument consent for the works in question, consent is refused, or is granted subject to conditions other than those which previously applied under the order (section 9(3) of the 1979 Act).

6. These powers relate to rights of entry and connected matters arising under sections 6, 6A, 26, 38, 39, 40 and 43 of the 1979 Act.

7. Under section 47(2) of the 1979 Act any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 7, 9 and 46 of the Ancient Monuments and Archaeological Areas Act 1979 make provision for the payment of compensation where scheduled monument consent is refused or granted subject to conditions, where works affecting a scheduled monument cease to be authorised, and where damage has been caused to land or chattels by the exercise of powers of entry and certain other powers under the 1979 Act.

These Regulations, which apply to Wales, prescribe the form for claiming compensation and provide for the time within which a claim is to be made.