

2011 No. 376

TOWN AND COUNTRY PLANNING

**The Town and Country Planning (Listed Buildings and
Buildings in Conservation Areas) (Scotland) Amendment
Regulations 2011**

<i>Made</i> - - - -	<i>27th October 2011</i>
<i>Laid before the Scottish Parliament</i>	<i>31st October 2011</i>
<i>Coming into force</i> - -	<i>1st December 2011</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 18, 19, 41D(5) and 82 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Amendment Regulations 2011 and come into force on 1st December 2011.

(2) In these Regulations—

“the 1987 Regulations” means the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987(b); and

“the Act” means the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Amendment of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987

2.—(1) Subject to regulation 3, the 1987 Regulations are amended in accordance with paragraphs (2) to (6).

(2) In regulation 6 (certificates to accompany applications and appeals) omit paragraphs (5) and (8).

(3) Omit regulation 8 (appeals).

(4) In regulation 9 (claims for compensation and listed building purchase notices)—

(a) in paragraph (1)—

(i) omit sub-paragraph (a)(i); and

(a) 1997 c.9. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). Sections 41D and 41I are inserted by section 23(1) of the Historic Environment (Amendment) (Scotland) Act 2011 (asp 3). Section 41I applies section 41D(5).

(b) S.I. 1987/1529 as amended by S.S.I. 2004/332.

- (ii) at the end of paragraph (c) insert—
 - “; and
 - (d) a claim for compensation made under section 41D or 41I (compensation for loss or damage due to a stop notice or a temporary stop notice) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (“the 1997 Act”).”.
- (b) for paragraph (3) substitute—

“(3) The time within which any claim for compensation as is mentioned in paragraph (1) is to be served is, in the case of a claim as is mentioned in—

 - (a) sub-paragraph (a)(ii) or (iii), 6 months from the date on which the listed building consent or the conservation area consent, as the case may be, is revoked or modified;
 - (b) sub-paragraph (a)(iv), 6 months from the date on which the notice ceases to have effect;
 - (c) in sub-paragraph (d), for loss or damage due to a stop notice, 6 months from the date on which the notice ceases to have effect; and
 - (d) sub-paragraph (d), for loss or damage due to a temporary stop notice—
 - (i) in the circumstances set out in section 41I(2)(a) of the 1997 Act, 6 months from the date on which the notice is first displayed; or
 - (ii) in the circumstances set out in section 41I(2)(b) of the 1997 Act, 6 months from the date on which the notice is withdrawn.

(4) The time within which a listed building purchase notice as is mentioned in paragraph (1) is to be served is 12 months from the date on which listed building consent or conservation area consent, as the case may be, is—

 - (a) refused;
 - (b) granted subject to conditions;
 - (c) revoked; or
 - (d) modified.”.
- (5) In Schedule 1—
 - (a) for paragraph 1 of the notification contained in Part I substitute—

“1. If the applicant is aggrieved by the decision of the planning authority to refuse listed building consent or conservation area consent for the proposed works, or to grant such consent subject to conditions, the applicant may appeal to the Scottish Ministers under section 18 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 within 3 months beginning with the date of this notice. The notice of appeal should be addressed to [Note 1].”;
 - (b) after that notification insert—

“NOTES TO PART I

Note 1 – insert details of address to which the notice of appeal should be sent.”; and

- (c) for Part II substitute—

“PART II

NOTIFICATION TO BE SENT TO APPLICANT ON REFUSAL TO VARY OR DISCHARGE CONDITIONS ATTACHED TO A LISTED BUILDING CONSENT OR A CONSERVATION AREA CONSENT OR ON THE ADDITION OF NEW CONDITIONS CONSEQUENTIAL UPON VARIATION OR DISCHARGE

If the applicant is aggrieved by the decision of the planning authority to refuse to vary or discharge the conditions attached to a listed building consent or conservation area consent or to add new conditions consequential upon any such variation, the applicant may appeal to the Scottish Ministers under section 18 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 within 3 months beginning with the date of this notice. The notice of appeal should be addressed to [Note 1].

NOTES TO PART II

Note 1 – insert details of address to which the notice of appeal should be sent.”.

- (6) In Schedule 2—

- (a) in Part I—

- (i) omit “/the appellant”, “/the appellant has” and “/the appellant is”, in each place where those words occur; and
- (ii) for “application/ appeal” substitute “application” in each place where those words occur;

- (b) in the Notes to Part I omit “or appeal”; and

- (c) omit Part III.

Saving provisions

3.—(1) Regulations 6 and 8 of, and Schedule 2 to, the 1987 Regulations continue to have effect as they had effect immediately before 1st December 2011 in relation to an appeal made under—

- (a) section 18(1) of the Act (appeals against refusal of or conditional consent to applications for listed building consent or against refusal of approval required by a condition);
- (b) section 18(2) of the Act (appeals in default of decision on application for listed building consent or for approval required by a condition);
- (c) section 18(1) and (2) of the Act as applied by—
 - (i) section 17 of the Act (applications for variation or discharge of conditions); or
 - (ii) section 66 of the Act (control of demolition of buildings in conservation areas),

where notice of appeal is given to the Scottish Ministers under section 19(1) of the Act before that date.

(2) Regulation 9 of the 1987 Regulations continues to have effect as it had effect immediately before 1st December 2011 in relation to a claim for compensation made or a listed building purchase notice served before that date.

St Andrew's House,
Edinburgh
27th October 2011

FIONA HYSLOP
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1997 to take account of the amendment of the Town and Country Planning (Scotland) Act 1997 by the Historic Environment (Amendment) (Scotland) Act 2011.

In particular, they remove provision on applications for appeal against decisions relating to listed building consent and make changes to procedures for making claims for compensation (regulation 2).

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