
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 229

**The Scheduled Monument Consent
Procedure (Scotland) Regulations 2015**

Certificates and notices

5.—(1) An applicant for scheduled monument consent is to give notice in terms of Form 1 set out in the Schedule to any other person who at the beginning of the prescribed period is the owner of the monument to which the application relates.

(2) The applicant is to issue a certificate stating, as appropriate, that—

- (a) at the beginning of the prescribed period no person (other than the applicant) was the owner of the monument to which the application relates;
- (b) the applicant has given notice in accordance with paragraph (1);
- (c) the applicant—

- (i) is unable to issue a certificate in accordance with sub-paragraph (a) or (b); and
- (ii) has given notice to at least one person entitled to receive notice under paragraph (1) but, having taken reasonable steps to ascertain the names and addresses of other such persons, was unable to give notice to those other persons; and

(d) the applicant—

- (i) is unable to issue a certificate in accordance with sub-paragraph (a); and
- (ii) having taken reasonable steps to ascertain the names and addresses of any person entitled to receive notice under paragraph (1), was unable to give notice to any such person.

(3) A certificate issued—

- (a) under paragraph (2)(b) or (c) must set out the name of every person to whom notice was given and the address at and the date on which such notice was given; and
- (b) under paragraph (2)(c) or (d) must specify the steps taken to ascertain the names and addresses of those persons to whom the applicant has been unable to give notice.

(4) For the purposes of this regulation—

“the 1911 Act” means the Small Landholders (Scotland) Act 1911(1);

“the 1991 Act” means the Agricultural Holdings (Scotland) Act 1991(2);

“the 2003 Act” means the Agricultural Holdings (Scotland) Act 2003(3);

“agricultural tenant” means—

- (a) in the case of an agricultural lease constituting a 1991 Act tenancy within the meaning of the 2003 Act, the tenant within the meaning of section 85 of the 1991 Act;

(1) 1911. c.49.
(2) 1991 c.55.
(3) 2003 asp 11.

- (b) in the case of a lease constituting a short limited duration tenancy or a limited duration tenancy under the 2003 Act, the tenant within the meaning of section 93 of that Act;
- (c) in the case of a holding within the meaning of the 1911 Act to which the 1991 Act does not apply, the landholder within the meaning of section 2(2) of the 1911 Act;

“owner of the monument” is—

- (a) any person who, in respect of any part of the land in, on or under which there is a scheduled monument, is under the Lands Clauses Acts enabled to sell and convey that land to promoters of an undertaking;
- (b) any person who is entitled to possession of that land as a tenant under a lease the unexpired period of which is not less than 10 years;
- (c) any tenant of a croft within the meaning of section 3, or any owner-occupier crofter of an owner-occupied croft under section 19B(5), of the Crofters (Scotland) Act 1993⁽⁴⁾ where any part of that croft is comprised in that land to which the application relates; or
- (d) any agricultural tenant of land any part of which is comprised in that land to which the application relates; and

“prescribed period” means the period of 21 days ending with the date of the application.

(4) 1993. c.44; section 19B(5) was inserted by section 34 of the Crofting Reform (Scotland) Act 2010 (asp 14).