

2015 No. 328

ANCIENT MONUMENTS

TOWN AND COUNTRY PLANNING

TRANSPORT AND WORKS

**The Scheduled Monuments and Listed Buildings (Miscellaneous
Amendments) (Scotland) Regulations 2015**

Made - - - - *9th September 2015*

Laid before the Scottish Parliament *11th September 2015*

Coming into force - - *10th October 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1(6), 4D and 9CB of the Ancient Monuments and Archaeological Areas Act 1979^(a), sections 1A, 9(3), 23(2) and 82 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997^(b), section 14 and 28 of the Transport and Works (Scotland) Act 2007^(c) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Scheduled Monuments and Listed Buildings (Miscellaneous Amendments) (Scotland) Regulations 2015 and come into force on 10th October 2015.

Amendment of the Transport and Works (Scotland) Act 2007 (Consents under Enactments) Regulations 2007

2.—(1) Subject to paragraphs (4) and (5), the Transport and Works (Scotland) Act 2007 (Consents under Enactments) Regulations 2007^(d) are amended in accordance with paragraphs (2) and (3).

(a) 1979 c.46 (“the 1979 Act”). Sections 1(6), 4D and 9CB were introduced respectively by paragraphs 2(e), 33 and 20 of schedule 2 to the Historic Environment Scotland Act 2014 (asp 19) (“the 2014 Act”). Section 61(1) of the 1979 Act contains a relevant definition of “prescribed”. The functions of the Secretary of State are transferred to the Scottish Ministers by virtue of section 53 (c.46) of the Scotland Act 1998 (c.46).

(b) 1997 c.9. Section 1A was inserted by paragraph 3 of schedule 3 to the 2014 Act. Section 9 was relevantly amended by paragraph 9 of schedule 3 to the 2014 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(c) 2007 asp 8.

(d) S.S.I. 2007/569 as amended by S.S.I. 2011/377.

(2) In regulation 5(3) (modification of procedures for listed building consent and conservation area consent)—

(a) for “the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987” substitute “the Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015(a)”;

(b) for sub-paragraph (a) substitute—

“(za) in regulation 4 (applications for listed building consent and conservation area consent) in paragraph (2)(c)(i) after “of Crown land” insert—

“and is made for the purposes of proposals included in a proposal by the Scottish Ministers to make an order by virtue of section 6 of the Transport and Works (Scotland) Act 2007”;

(a) for regulation 8 (advertisement of applications) substitute—

“8.—(1) Where an application for listed building consent, for conservation area consent or to vary or discharge conditions attached to a listed building consent or a conservation area consent is made to a planning authority in respect of any building—

(a) the applicant must not earlier than 14 days before, and not later than, the date of the application, publish in the Edinburgh Gazette and in a local newspaper circulating in the locality in which the building is situated a notice—

(i) indicating the nature of the works which are the subject of the application;

(ii) naming a place within that locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period specified in the notice, being a period of not less than 42 days from the date on which the application is made; and

(iii) stating that representations may be made in writing to the planning authority within that period,

and such notice may be combined with such notice of the concurrent application as the applicant is required, by either rules made under section 4 of the Transport and Works (Scotland) Act 2007 (applications), or section 6(3)(b) of that Act (orders made otherwise than on application), to publish in the Edinburgh Gazette and in a local newspaper; and

(b) the planning authority must, for not less than 7 days during the period specified in the notice under sub paragraph (a) of this paragraph by virtue of paragraph (ii) of that sub-paragraph, display on or near the building a notice containing the same particulars as are required to be contained in the notice under that sub paragraph.

(2) In this regulation, “concurrent application” means an application made under section 4 of the Transport and Works (Scotland) Act 2007, or a proposal by the Scottish Ministers to make an order by virtue of section 6 of that Act, relating to proposals for the purposes of which the granting of listed building consent or conservation area consent is required in respect of the building to which the application for listed building consent or conservation area consent relates.”;

(a) S.S.I. 2015/243.

- (c) in sub paragraph (b)—
 - (i) for “regulation 6 (certificates to accompany applications)” substitute “regulation 9 (notice to owners)”;
 - (ii) in paragraph (i)—
 - (aa) for “paragraph (1)(a)” substitute “paragraph (2)(a)”;
 - (bb) omit “a certificate stating” from inserted paragraph (aa);
 - (iii) omit paragraphs (ii), (iii) and (iv); and
 - (d) omit sub-paragraphs (c) and (d).
- (3) In regulation 6(2) (modification of procedures for scheduled monument consent)—
- (a) for “the Ancient Monuments and Archaeological Areas (Applications for Scheduled Monument Consent) (Scotland) Regulations 2011” substitute “the Scheduled Monument Consent Procedure (Scotland) Regulations 2015(a)”;
 - (b) for sub-paragraph (a) substitute—
 - “(a) in regulation 3 (application for scheduled monument consent) after paragraph (2) insert—
 - “(3) The application must also be accompanied by a statement that the application is made for the purpose of proposals included in the concurrent application and the statement must give (if known) the date and the reference number of the concurrent application.
 - (4) In this regulation “concurrent application” means an application made under section 4 (applications) of the Transport and Works (Scotland) Act 2007 relating to proposals for the purpose of which the granting of scheduled monument consent is required in respect of the monument.”; and
 - (c) in sub-paragraph (b)—
 - (i) for “regulation 3” substitute “regulation 5”; and
 - (ii) in paragraph (iii)(bb) for “a monument” in both places where those words occur substitute “the monument”.

(4) The provisions of regulation 5(3) of the Transport and Works (Scotland) Act 2007 (Consents under Enactments) Regulations 2007 continue to apply as they did immediately before 10th October 2015 in respect of an application for listed building consent or conservation area consent or variation or discharge of conditions in relation to which the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987 continue to have effect by virtue of regulation 19(3) of the Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015.

(5) The provisions of regulation 6(2) of the Transport and Works (Scotland) Act 2007 (Consent under Enactments) Regulations 2007 continue to apply as they did immediately before 10th October 2015 in respect of an application for scheduled monument consent in relation to which the Ancient Monuments and Archaeological Areas (Applications for Scheduled Monument Consent) (Scotland) Regulations 2011 continue to have effect by virtue of regulation 14(2) of the Scheduled Monument Consent Procedure (Scotland) Regulations 2015.

Amendment of the Scheduled Monument (Appeals) (Scotland) Regulations 2015

3.—(1) The Scheduled Monument (Appeals) (Scotland) Regulations 2015(b) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 6(4) (notification to interested parties) for “paragraph (4)” substitute “paragraph (3)”.

(a) S.S.I. 2015/229.
 (b) S.S.I. 2015/231.

(3) In regulation 16(4)(c) (intimation of appeal to Historic Environment Scotland) for “the planning authority’s” substitute “Historic Environment Scotland’s”.

(4) In regulation 17(1) (notification to other parties) for “15” substitute “16”.

Amendment of the Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015

4.—(1) The Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 12(3)(b) (decision notice) for “representation” substitute “representations”.

(3) In regulation 16 (advertisement of unopposed revocation or modification order) for “paragraph” substitute “section”.

Amendment of the Listed Buildings (Notification and Publication) (Scotland) Regulations 2015.

5.—(1) The Listed Buildings (Notification and Publication) (Scotland) Regulations 2015(b) are amended in accordance with paragraph (2).

(2) In regulation 3(3) (notification of inclusion in, amendment to or exclusion from the list) for “or exclusion” substitute “of a building in the list or the exclusion”.

Amendment of the Scheduled Monuments (Notification and Publication) (Scotland) Regulations 2015.

6.—(1) The Scheduled Monuments (Notification and Publication) (Scotland) Regulations 2015 (c) are amended in accordance with paragraph (2).

(2) In regulation 3(3) (notification of inclusion in, amendment to or exclusion from the Schedule) for “or exclusion” substitute “of a monument in the Schedule or the exclusion”.

FIONA HYSLOP

A member of the Scottish Government

St Andrew’s House,
Edinburgh
9th September 2015

(a) S.S.I. 2015/243.
(b) S.S.I. 2015/241.
(c) S.S.I. 2015/230.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Transport and Works (Scotland) Act 2007 (Consents under Enactments) Regulations 2007 (“the 2007 Regulations”), the Scheduled Monument (Appeals) (Scotland) Regulations 2015, the Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015, the Listed Buildings (Notification and Publication) (Scotland) Regulations 2015 and the Scheduled Monuments (Notification and Publication) (Scotland) Regulations 2015.

Regulations 5 and 6 of the 2007 Regulations respectively modify the procedures relating to applications for listed building and conservation area consent and for scheduled monument consent where such consents are applied for in respect of a proposal under the Transport and Works (Scotland) Act 2007. The current Regulations modify the procedures set out in the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987 which are to be replaced by the Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015 (“the 2015 Listed Building Regulations”). Regulation 2 of these Regulations amends regulations 5 and 6 of the 2007 Regulations in order to make equivalent modifications to the procedure as set out in the 2015 Listed Building Regulations.

Regulations 3 to 6 make minor changes to the Scheduled Monument (Appeals) (Scotland) Regulations 2015, the 2015 Listed Building Regulations, the Listed Buildings (Notification and Publication) (Scotland) Regulations 2015 and the Scheduled Monuments (Notification and Publication) (Scotland) Regulations 2015 to tidy up the wording of various provisions.

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