

1975 No. 2069 (S.277)

TOWN AND COUNTRY PLANNING, SCOTLAND

**The Town and Country Planning (Listed Buildings and Buildings
in Conservation Areas) (Scotland) Regulations 1975**

Made - - - 3rd December 1975

Laid before Parliament 22nd December 1975

Coming into Operation 15th January 1976

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In exercise of the powers conferred on me by sections 52(5), 54(6), 88(3) and (4), 95(3), 160(2), 161(1), 162(3), 179(1), 273(1) and 275 of, and paragraphs 1, 2, 7, 8 and 11 of Schedule 10 to, the Town and Country Planning (Scotland) Act 1972(a) and sections 257, 262A(2) and (8) of the Town and Country Planning (Scotland) Act 1972 as substituted by sections 7(2) and 2(1) respectively of the Town and Country Amenities Act 1974(b) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1.—These regulations may be cited as the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1975 and shall come into operation on 15th January 1976.

Interpretation

- 2.—(1) In these regulations, unless the context otherwise requires—
 “the Act” means the Town and Country Planning (Scotland) Act 1972;
 “the Act of 1974” means the Town and Country Amenities Act 1974;
 “listed building” has the meaning assigned to it by section 52(7) of the Act;
 “building in a conservation area” means an unlisted building within a conservation area to which listed building control is applied by sections 262A(2) and (8) of the Act (as substituted by section 2(1) of the Act of 1974);
 “listed building consent” means the consent required by section 53(2) of the Act in respect of works for the demolition, extension or alteration of a listed building and the consent required by that subsection (as applied by section 262A(8) of the Act and by Regulation 13 of and Schedule 6 to these regulations) for works for the demolition of a building in a conservation area;
- (2) The Interpretation Act 1889(c) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Revocation and Savings

3.—(1) The Town and Country Planning (Listed and Controlled Buildings) (Scotland) Regulations 1973(d) are hereby revoked.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provision of these regulations and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

(3) So much of any document, drawing or plan as refers expressly or by implication to any regulation revoked by these regulations shall, if and so far as the context permits, be construed as referring to the corresponding provision of these regulations.

(4) Nothing in paragraphs (2) and (3) of this regulation shall be taken as affecting the general application by regulation 2(2) of these regulations of the rules for the construction of Acts of Parliament contained in section 38 of the Interpretation Act 1889 (effect of repeal) with regard to the effect of revocation.

(a) 1972 c. 52. (b) 1974 c. 32. (c) 1889 c. 63. (d) S.I. 1973/1742 (1973 III, p. 5322).

Applications for listed building consent

4.—(1) An application to a planning authority for listed building consent shall—

(a) be made on a form issued by the planning authority and obtainable from that authority, which form shall be as prescribed (or substantially as prescribed) in Schedule I hereto;

(b) include the particulars required by that form;

(c) be accompanied by a plan sufficient to identify the building to which it relates and by such other plans or drawings as are necessary to describe the works which are the subject of the application; and

(d) be accompanied by two further copies of the form and of any plans or drawings.

(2) The planning authority may by a direction in writing addressed to the applicant require him to provide such further information, in addition to that given in the application, as may be requisite to enable them to determine the application, or to produce to them such evidence as they may reasonably call for to verify any particulars of information given to them.

(3) The period within which the planning authority shall give notice to an applicant of their decision or of the reference of an application to the Secretary of State shall be two months from the date of the receipt of the application by the planning authority or such extended period as may at any time (except where the applicant has already given notice of appeal to the Secretary of State) be agreed upon in writing between the applicant and the planning authority.

(4) Every such notice shall be in writing and where the planning authority decide to grant listed building consent subject to conditions or to refuse it, they shall state their reasons in writing and send with the decision a notification in the terms (or substantially in the terms) set out in Schedule 2 hereto.

Advertisement of applications

5.—(1) Where an application for listed building consent is made to the planning authority in respect of any building the planning authority shall—

(a) publish in the Edinburgh Gazette and in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application and 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 of 21 days beginning with the date of publication of the notice; and

(b) for not less than 7 days display on or near the said building a notice containing the same particulars as are required to be contained in the notice to be published in accordance with sub-paragraph (a) of this paragraph.

(2) An application for listed building consent shall not be determined by the planning authority before the following periods have elapsed, namely—

(a) the period of 21 days referred to in sub-paragraph (a) of paragraph (1) of this regulation, and where the date of publication of the notice in the

Edinburgh Gazette and the date of publication of the notice in a local newspaper are not the same the above mentioned period of 21 days will be taken to commence on whichever is the later of the two dates of publication; and

(b) the period of 21 days beginning with the date on which the notice required by sub-paragraph (b) of paragraph (1) of this regulation was first displayed;

and in determining the application the planning authority shall take into account any representations relating to the application which are received by them before these periods have elapsed.

Certificates to accompany applications and appeals

6.—(1) A planning authority shall not entertain an application for listed building consent unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say—

(a) a certificate stating that in respect of every part of the land to which the application relates the applicant is the proprietor of the *dominium utile* or is the lessee under a lease thereof;

(b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than the applicant) who, at the beginning of the period of 21 days ending with the date of the application, were owners of any of the land to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice;

(c) a certificate stating that the applicant is unable to issue a certificate in accordance with either sub-paragraph (a) or (b) of this paragraph, that he has given the requisite notice of the application to such one or more of the persons mentioned in sub-paragraph (b) of this paragraph as are specified in the certificate (setting out their names, the address at which notice of the application was given to them respectively, and the date of service of each such notice), that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so;

(d) a certificate stating that the applicant is unable to issue a certificate in accordance with sub-paragraph (a) of this paragraph, that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in sub-paragraph (b) of this paragraph and that he has been unable to do so.

(2) Any such certificate as is mentioned in sub-paragraph (c) or sub-paragraph (d) of paragraph (1) of this regulation shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (being a date not earlier than the beginning of the period mentioned in sub-paragraph (b) of paragraph (1) of this regulation) been published in a local newspaper circulating in the locality in which the land in question is situated.

(3) Where an application for listed building consent is accompanied by such a certificate as is mentioned in sub-paragraphs (b) (c) and (d) of paragraph (1) of this regulation—

(a) the planning authority shall not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or the date of publication of a notice as therein mentioned, whichever is the later;

(b) the planning authority, in determining the application, shall take into account any representations relating thereto which are made to them, before the end of the period specified in sub-paragraph (a) of this paragraph, by any person who satisfies them that he is an owner of any of the land to which the application relates; and

(c) the planning authority shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with sub-paragraph (b) of this paragraph.

(4) The provisions of paragraphs (1) to (3) of this regulation shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under paragraph 7 or paragraph 8 of Schedule 10 to the Act as also applied to buildings in conservation areas by section 262A (8) of the Act (as substituted by section 2(1) of the Act of 1974) as they apply in relation to an application for listed building consent which falls to be determined by the planning authority.

(5) Certificates issued for the purposes of this regulation shall be in the forms set out in Part I of Schedule 3 hereto.

(6) The requisite notices for the purposes of the provisions of this regulation in relation to applications shall be in the forms set out in Part II of Schedule 3 hereto.

(7) The requisite notices for the purposes of the provisions of this regulation in relation to appeals shall be in the forms set out in Part III of Schedule 3 hereto.

(8) For the purpose of this regulation the persons who are to be treated as owners of the land to which an application for listed building consent relates are persons, who, in respect of any part of the land, are the proprietors of the *dominium utile* or are the lessees under a lease thereof of which not less than ten years remain unexpired.

Appeals

7.—(1) Any person who desires to appeal—

(a) against a decision of a planning authority refusing listed building consent or granting such consent subject to conditions, or

(b) on the failure by a planning authority to give notice of their decision or of the reference of the application to the Secretary of State,

shall give notice of appeal to the Secretary of State within six months of the receipt of the notice of the decision or of the expiry of the appropriate period allowed under regulation 4(3) of these regulations as the case may be, or such longer period as the Secretary of State may at any time allow.

(2) Any such person shall also furnish to the Secretary of State a copy of the following documents:—

(a) the application made to the planning authority;

(b) all relevant plans, drawings, particulars or documents submitted with the application, including a copy of the certificate given in accordance with regulation 6 of these regulations;

(c) the notice of the decision, if any; and

(d) all other relevant correspondence with the planning authority.

Claims for compensation and listed building purchase notices

8.—(1) This regulation applies to—

(a) a claim for compensation made to a planning authority under—

(i) section 160 of the Act (compensation for refusal of consent to the alteration or extension of a listed building);

(ii) section 161 of the Act (compensation where listed building consent is revoked or modified);

(iii) section 161 of the Act as applied to buildings in conservation areas by section 262A (8) of the Act (as substituted by section 2(1) of the Act of 1974);

(iv) section 162 of the Act (compensation for loss or damage caused by the service of a building preservation notice); and

(b) a listed building purchase notice served on a planning authority under section 179 of the Act; and

(c) a listed building purchase notice served on a planning authority under section 179 of the Act as applied to buildings in conservation areas by section 262A (8) of the Act (as substituted by section 2(1) of the Act of 1974).

(2) Any such claim or notice as is mentioned in paragraph (1) of this regulation shall be in writing and shall be served on the planning authority by sending it, addressed to them, by pre-paid post, or by delivering it to their offices.

(3) The time within which any such claim or notice as is mentioned in paragraph (1) of this regulation shall be served shall be—

(a) in the case of a claim for compensation, 6 months; and

(b) in the case of a listed building purchase notice, 12 months from the date of the decision in respect of which the claim or notice is made or given, or such longer period as the Secretary of State may allow in any particular case.

Advertisement of unopposed revocation or modification order

9. Where by virtue of the provisions of paragraph 11(2) of Schedule 10 to the Act as also applied to buildings in conservation areas by section 262A (8) of the Act (as substituted by section 2(1) of the Act of 1974) (advertisement of unopposed order revoking or modifying listed building consent) the making of an order under paragraph 9 of Schedule 10 to the Act in respect of works to or demolition of a building is required to be advertised, the planning authority shall publish in The Edinburgh Gazette and in a local newspaper circulating in the area in which the building is situated an advertisement stating that the order has been made and specifying the periods required by paragraph 11(2) of Schedule 10 to the Act as also applied as aforesaid to be specified.

Application of provisions of the Water (Scotland) Act 1946 to listed building enforcement notices

10. The provisions set out in Schedule 4 to these regulations being sections 57 and 68 of the Water (Scotland) Act 1946(a), adapted and modified for the purposes of these regulations, shall apply in relation to steps required to be taken by a listed building enforcement notice under section 92 of the Act as also applied to buildings in conservation areas by section 262A(8) of the Act (as substituted by section 2(1) of the Act of 1974).

Application of listed building control to planning authorities

11.—(1) In relation to applications by planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings, the provisions of Part IV of Schedule 19 to the Act, other than sections 160, 161 and 179 thereof, shall have effect but subject to the exceptions and modifications prescribed by this regulation.

(2) Where a planning authority require listed building consent for the demolition, alteration or extension of any listed building in their area, the authority shall make application to the Secretary of State for that consent.

(3) Any such application shall—

- (a) be made in the form of an application to the planning authority;
- (b) be published and displayed by the planning authority in the same manner as an application made to them for listed building consent and in accordance with the provisions of regulation 5(1) of these regulations; and
- (c) be deemed to have been referred to the Secretary of State under paragraph 4 of Schedule 10 to the Act;

and the provisions of paragraph 4 of Schedule 10 to the Act shall apply to the determination of the application by the Secretary of State.

(4) In relation to a listed building belonging to a local authority in respect of which they are the planning authority, the Secretary of State may serve any notice authorised to be served by a planning authority in relation to a listed building.

Form of notice that a building has become, or ceased to be, listed

12. The forms set out in Schedule 5 hereto (or forms substantially to the like effect) are the prescribed forms of notice for the purposes of section 52(5) of the Act (service of notice that a building has been listed).

Application of listed building control to buildings in conservation areas

13. In their application to buildings in conservation areas, the provisions of the Act relating to listed building control which are set out in column (1) of Schedule 6 to these regulations shall have effect as they have effect in relation to listed buildings, subject to the exceptions and modifications set out opposite such provisions in column (2) of the said Schedule 6.

William Ross

One of Her Majesty's Principal
Secretaries of State

New St. Andrew's House,
Edinburgh.
3rd December 1975.

(a) 1946 c. 42.

Regulation 4

SCHEDULE 1

Form of application for listed building consent

[]¹ Council

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

TOWN AND COUNTRY AMENITIES ACT 1974

TOWN AND COUNTRY PLANNING (LISTED BUILDINGS AND BUILDINGS IN CONSERVATION AREAS) (SCOTLAND) REGULATIONS 1975

APPLICATION FOR LISTED BUILDING CONSENT

IMPORTANT: Please check whether you require planning permission, or permission under any other enactments, in addition to listed building consent.

PART I

I/We hereby apply for listed building consent in respect of proposed works affecting the building specified in Part II below (which is a building included in the list of buildings of special architectural or historic interest compiled by the Secretary of State)* (which is an unlisted building in a conservation area)* in accordance with the particulars given in Parts II and III of this form and with the plans which accompany this application.

Signature of Applicant or Agent.....

Date.....

PART II

1. Full name and address of applicant(s) (BLOCK LETTERS)

.....
.....
.....

(Telephone Number).....

¹Insert name of planning authority

*Delete where inappropriate

2. Full name, address of applicant(s) agent, if any

.....
.....
.....

(Telephone Number).....

3. Address or location of the property to which this application refers
(described in sufficient detail to enable it to be readily identified)

.....
.....
.....
.....

4. Nature of proposed works*

- (a) demolition: partial/total*
- (b) alteration or extension²
- (c) change of external cladding or stone-cleaning²

5. Give a brief description of the proposed works including details of the materials to be used if this information is not included in the accompanying plans

6. Estimated cost of the proposed works

7. (a) Estimated date of commencement of the proposed works

(b) Estimated date of completion of the proposed works

* Delete where inappropriate

²Subsections (b) and (c) do not apply where the application is for consent to demolish an unlisted building in a conservation area.

PART III³

This part must be completed and accompanied by appropriate plans for works which involve the alteration, extension or change of external cladding of a listed building.

8. State the purpose for which the building is now used.
9. State the purpose for which the building is to be used.
10. Have any works (e.g. improvements/extensions) been carried out on the building since 1946? If so, give details with dates.
11. Design and external appearance of the building. Please state
 - (i) The type and colour of the external finish of the walls;
 - (ii) The type and colour of materials for roof covering;
 - (iii) The material/height etc. of any new boundary walls and/or fences to be erected.

Notes

(1) This form when submitted to the planning authority must be accompanied by three copies of all plans and one of the four certificates set out in Part I of Schedule 3 to the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1975. Any notice to be served on an individual or published in a local newspaper in connection with an application for listed building consent should be in the terms set out in Part II of Schedule 3 of the above-mentioned regulations.

(2) Under paragraph 2(2) of Schedule 10 to the Town and Country Planning (Scotland) Act 1972 it is an offence punishable by a fine of up to £100 to issue a certificate which contains, or is known by the applicant or his agent to contain, a statement which is false or misleading in a material particular.

³This part does not apply where the application is for consent to demolish an unlisted building in a conservation area.

Regulation 4

SCHEDULE 2

NOTIFICATION TO BE SENT TO APPLICANT ON REFUSAL OF LISTED BUILDING
CONSENT OR GRANT OF SUCH CONSENT SUBJECT TO CONDITIONS

1. If the applicant is aggrieved by the decision of the planning authority to refuse listed building consent for the proposed works, or to grant such consent subject to conditions, he may, by notice served within 6 months of the receipt of this notice, appeal to the Secretary of State in accordance with paragraph 7 of Schedule 10 to the Town and Country Planning (Scotland) Act 1972 as also applied to buildings in conservation areas by section 262A (8) of that Act (as substituted by section 2(1) of the Town and Country Amenities Act 1974). The Secretary of State has power to allow a longer period for the giving of a notice of appeal and he will exercise his power in cases where he is satisfied that the applicant has deferred the giving of notice because negotiations with the planning authority in regard to the proposed works are in progress.

2. If listed building consent is refused, or granted subject to conditions, whether by the planning authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any works which have been or would be permitted, he may serve on the planning authority in whose district the land is situated a listed building purchase notice requiring that authority to purchase his interest in the land in accordance with the provisions of section 179 of the Town and Country Planning (Scotland) Act 1972 as also applied to buildings in conservation areas by section 262A (8) of that Act (as substituted by section 2(1) of the Town and Country Amenities Act 1974).

3. In certain circumstances a claim may be made against the planning authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of an application to him. The circumstances in which such compensation is payable are set out in section 160 of the Town and Country Planning (Scotland) Act 1972.

of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1975 in respect of the accompanying *application appeal

dated

2. I have

*The applicant has

The appellant has given the requisite notice to the following persons who, 21 days before the date of the *application were owners of the land (a), or part thereof, to which the *application relates, viz:—

Name of owner	Address	Date of service of Notice
---------------	---------	---------------------------

3. I have

*The applicant has

The appellant has taken the steps listed below, being steps reasonably open to *me to ascertain the names and addresses of the owners of the land or part thereof and *have been unable to do so:

(b)
.....
.....

4. Notice of the *application as set out below has been published in the (c).....
on (d).....

Copy of notice as published

Or:—

**Delete where inappropriate*

Certificate D* I hereby certify that:—

1. I am

*the applicant is

the appellant is unable to issue a certificate in accordance with sub-paragraph (a) of regulation 6(1) of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1975 in respect of the accompanying *application dated.....

appeal

*I have taken the steps listed below, being steps reasonably

He has

open to *me, to ascertain the names and addresses of any of him

the owners of any of the land (a) to which the *application appeal

relates and *have been unable to do so:

has

(b)
.....
.....

2. Notice of the *application as set out below has been published in the (c).....

appeal

on (d).....

Copy of notice as published

Signed.....

*[on behalf of]

Date

Notes

(a) For the purpose of this certificate "land" includes a building or buildings.

(b) Insert description of steps taken.

(c) Insert name of the local newspaper (circulating in the locality in which the land is situated) in which the notice has been published.

(d) Insert date of publication (which must not be earlier than 21 days before the application or appeal).

* Delete where inappropriate

PART II

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

*Notice under paragraph 2 of Schedule 10
of application for listed building consent*

[Notice for service on individuals]

Proposal to carry out works for [demolishing] [altering] [extending]*.....
.....(a).

TAKE NOTICE that application is being made to the.....(b)
Council by.....(c) for listed building consent
to.....(d).

If you wish to make representations about the application, you should make
them in writing, within 21 days of the date of service of this notice upon you, to
.....(e).

Signed.....
[on behalf of.....]*
Date

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

*Notice under paragraph 2 of Schedule 10
of application for listed building consent*

[Notice for publication in local newspaper]

Proposal to carry out works for [demolishing] [altering] [extending]*.....
.....(a).

Notice is hereby given that application is being made to the.....(b)
Council by.....(c) for listed building consent
to.....(d).

Any owner of the land or building(s) (including a person entitled to possession
under a lease the unexpired period of which is not less than ten years) who wishes
to make representations to the council about the application should make them
in writing, within 21 days of the date of publication of this notice to.....
.....(e).

Signed.....
[on behalf of.....]*
Date

Notes

- (a) Insert name, address, or location, of building with sufficient precision to ensure identification of it.
- (b) Insert name of planning authority.
- (c) Insert name of applicant.
- (d) Insert description of proposed works and name, address, or location of building.
- (e) Insert name and address of planning authority.

*Delete where inappropriate

PART III

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

*Notice under paragraph 7 of Schedule 10 of appeal
against refusal, etc. of listed building consent*

[Notice for service on individuals]

Proposal to carry out works for [demolishing] [altering] [extending]*.....
.....(a).TAKE NOTICE that an appeal is being made to the Secretary of State by.....
.....(b).

*(i) against the decision of the.....(c) Council

*(ii) on the failure of the.....(c) Council to give
a decision

on an application to (d).

If you wish to make representations to the Secretary of State about the appeal you should make them in writing, within 21 days of the date of service of this notice, to the Secretary, Scottish Development Department, New St Andrew's House, St James Centre, Edinburgh, EH1 3SZ.

Signed
[on behalf of]*
Date

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

*Notice under paragraph 7 of Schedule 10 of appeal
against refusal, etc. of listed building consent*

[Notice for publication in local newspaper]

Proposal to carry out works for [demolishing] [altering] [extending]*.....
.....(a).Notice is hereby given that an appeal is being made to the Secretary of State
by..... (b).

*(i) against the decision of the.....(c) Council

*(ii) on the failure of the..... (c)
Council to give a decision

on an application to..... (d).

* Delete where inappropriate

Any owner of the land or building(s) (including a person entitled to possession under a lease the unexpired period of which is not less than ten years) who wishes to make representations to the Secretary of State about the appeal should make them in writing, within 21 days of the date of publication of this notice, to the Secretary, Scottish Development Department, New St Andrew's House, St James Centre, Edinburgh, EH1 3SZ.

Signed
[On behalf of]*
Date

Notes

- (a) Insert name, address, or location, of building with sufficient precision to ensure identification of it.
- (b) Insert name of appellant.
- (c) Insert name of planning authority.
- (d) Insert description of proposed works and name, address, or location of building.

Regulation 10

SCHEDULE 4

*Sections 57 and 68 of the Water (Scotland)
Act 1946 as adapted and modified for the
purposes of these regulations*

57. Where a planning authority claim to recover any expenses under section 95(1) of the Town and Country Planning (Scotland) Act 1972 as applied to buildings in conservation areas by section 262A (8) of that Act (as substituted by section 2(1) of the Town and Country Amenities Act 1974) from the person who is then the owner or lessee of the land in respect of which the expenses were incurred, and that person proves that he:—

- (a) is receiving the rent of that land merely as a trustee, tutor, curator, factor or agent for some other person, and
- (b) has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the planning authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid; but a planning authority who are or would be debarred by the foregoing provision from recovering the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover the whole or any unpaid balance thereof from the person on whose behalf he receives the rent.

68. If on a complaint by the owner or lessee of any land it appears to the Sheriff that the occupier of that land prevents the owner or lessee, as the case may be, from taking any steps which he is required to take by a listed building enforcement notice served under section 92 of the Town and Country Planning (Scotland) Act 1972 as applied to buildings in conservation areas by section 262A (8) of that Act (as substituted by section 2(1) of the Town and Country Amenities Act 1974) the Sheriff may authorise the owner or lessee, as the case may be, to enter on the land for the purpose of taking those steps.

SCHEDULE 5

*Notice that a building has become listed***IMPORTANT—This communication affects YOUR
PROPERTY****TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972
BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST**

To:

NOTICE IS HEREBY GIVEN that the building known as.....
situated in the
has been included in the list of buildings of special architectural or historic
interest in that area compiled by the Secretary of State under section 52 of the
Town and Country Planning (Scotland) Act 1972 on.....19.....
Dated.....19.....

*(Signature of Authorised Officer)**Explanatory Note**Listing of Buildings of Special Architectural
or Historic Interest*

It is understood that you are the owner, lessee, or occupier of the building named in the accompanying notice. This notice is to let you know that the building has been included in one of the lists of buildings of special architectural or historic interest which it is the Secretary of State's duty to compile under section 52 of the Town and Country Planning (Scotland) Act 1972.

This notice does not call for any action on your part unless you propose at any time to demolish the building or to do any works (either to the exterior or to the interior) which would affect its character. In that event you will need to seek "listed building consent", that is to say, the consent of the planning authority (theCouncil) to the work you wish to do.

Certain buildings are exempt from this requirement, notably ecclesiastical buildings in use for the time being for ecclesiastical purposes.

It is an offence if you execute or cause to be executed any works for which listed building consent is necessary without such consent, but it is a defence if the works are urgently necessary in the interests of safety or of health, or to preserve the building, provided that you notify the planning authority in writing, as soon as reasonably practicable, of the need for the works.

There is no right of appeal as such against the listing of a building but if the planning authority should refuse consent for the carrying out of any proposed works, section 54(6) of the Town and Country Planning (Scotland) Act 1972 as read with paragraph 7 of Schedule 10 to that Act provides a right of appeal against the refusal to the Secretary of State. You are not precluded at any time from writing to the Secretary of State claiming that the building should cease to be listed on the ground that it is not in fact of special architectural or historic interest; and any such claim, with the evidence supporting it, will be carefully considered.

A fuller explanation of the consequences of the listing of a building is enclosed with this notice. If at any time you propose to take any action which may affect the character of your building, you would be well advised to refer to Part IV of and Schedule 10 to the Town and Country Planning (Scotland) Act 1972 and to the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1975.

Notice that a building has ceased to be listed

**IMPORTANT—This communication affects YOUR
PROPERTY**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972
BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST**

To:

NOTICE IS HEREBY GIVEN that the building known as.....
situated in the
has, by an amendment made by the Secretary of State under section 52 of the
Town and Country Planning (Scotland) Act 1972 on
.....19....., been excluded from the list of buildings of special architectural
or historic interest in that area compiled by the Secretary of State on.....
.....19.....
Dated.....19.....

(Signature of Authorised Officer)

Explanatory Note

The building referred to in the above notice has been excluded from the list
because*

*Insert reason for exclusion

Regulation 13

SCHEDULE 6

Column (1) Provisions of the Act relating to listed building control	Column (2) Exceptions and modifications
Section 53	<p>1. In subsection (1)—</p> <p>(i) for the words “listed building” substitute the words “building in a conservation area”;</p> <p>(ii) omit the words “or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest”.</p> <p>2. In subsection (2)—</p> <p>(i) for the words “listed building” substitute the words “building in a conservation area”;</p> <p>(ii) omit the words “or for its alteration or extension”;</p> <p>(iii) omit paragraph (b).</p> <p>3. Omit subsection (3).</p> <p>4. In subsection (4), for the words “listed building” substitute the words “building in a conservation area”.</p>
Section 54(3), (5) and (6)	<p>In subsection (3)—</p> <p>(i) omit the words from the beginning to “extension of a listed building, and”;</p> <p>(ii) for the words “the desirability of preserving the building or any features of special architectural or historic interest which it possesses”, substitute the words “the desirability of preserving the character or appearance of the conservation area”.</p>
Section 92	<p>In subsection (1)—</p> <p>(i) for the words “listed building” substitute the words “building in a conservation area”;</p> <p>(ii) for the words “the character of the building as one of special architectural or historic interest”, substitute the words “the character or appearance of the conservation area in which the building is situated”.</p>

Column (1) Provisions of the Act relating to listed building control	Column (2) Exceptions and modifications
Section 93	1. In subsection (1)— (i) substitute the following paragraph for paragraph (a)— “(a) that retention of the building is not necessary in the interests of preserving the character or appearance of the conservation area in which it is situated;” (ii) omit paragraph (h). 2. In subsection (5), omit paragraphs (b) and (c).
Sections 94 and 95	None.
Section 161	None.
Section 179	None.
Section 253(1)(b)	None.
Schedule 10, parts I and II	In part I omit paragraphs 6 and 7(2) and (3)(b).
Schedule 17	None.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations revoke and re-enact with amendments the Town and Country Planning (Listed and Controlled Buildings) (Scotland) Regulations 1973 to take account of the provisions of the Town and Country Amenities Act 1974.

The principal changes are:—

- (a) the provision of a new definition of “listed building consent” to take account of the extension of the statutory provisions by the Town and Country Amenities Act 1974 so as to cover the demolition of buildings in conservation areas (Regulation 2(1));
- (b) the prescribing for the first time of the form of application for listed building consent (Regulation 4);
- (c) the introduction of a requirement that planning authorities should advertise in the Edinburgh Gazette as well as in a local newspaper, applications for listed building consent and unopposed revocation or modification of consent orders (Regulation 5);
- (d) the extension, to cover all applications by planning authorities, of the provisions requiring them to apply to the Secretary of State for listed building consent, previously restricted only to applications in respect of buildings of which they were the owners (Regulation 11); and
- (e) the modifying of certain provisions of the Town and Country Planning (Scotland) Act 1972 relating to listed building control in their application to buildings in conservation areas (Regulation 13).

These Regulations accordingly prescribe the manner in which applications for listed building consent are to be made and advertised, and the manner in which appeals may be made by persons aggrieved by decisions of planning authorities under Part IV of the Town and Country Planning (Scotland) Act 1972.

The Regulations also

- (i) prescribe the manner in which and the time within which claims are to be made for compensation arising from the application of statutory control to listed buildings and buildings in conservation areas, the serving of listed building purchase notices, the advertising of unopposed orders revoking or modifying listed building consent, and the execution of works under listed building enforcement procedure;
- (ii) prescribe forms of notices to owners and occupiers of buildings which become listed or cease to be listed.

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