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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 373**

**ANCIENT MONUMENTS**

**The Ancient Monuments and Archaeological Areas  
(Compensation) (Scotland) Regulations 2011**

*Made* - - - - 27th October 2011  
*Laid before the Scottish  
Parliament* - - - - 31st October 2011  
*Coming into force* - - 1st December 2011

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 47(1) and 60 of the Ancient Monuments and Archaeological Areas Act 1979(1) and all other powers enabling them to do so.

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the Ancient Monuments and Archaeological Areas (Compensation) (Scotland) Regulations 2011 and come into force on 1st December 2011.

(2) In these Regulations—

“the Act” means the Ancient Monuments and Archaeological Areas Act 1979; and

“claim” means a claim for compensation payable or recoverable under section 7, 9, 9I, 9N(2) or 46 of the Act.

(3) These Regulations extend to Scotland only.

**Claim for compensation**

2. A claim is to be made in writing and must be made within 6 months of—

(a) in the case of compensation payable under section 7 of the Act (compensation for refusal of scheduled monument consent), the date of the notice of refusal or, as the case may be, the granting subject to conditions of scheduled monument consent;

(b) in the case of compensation payable under section 9 of the Act (compensation where works affecting a scheduled monument cease to be authorised), the date on which the works cease to be authorised;

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(1) 1979 c.46. The functions of the Secretary of State were transferred to the Scottish Ministers under section 53 of the Scotland Act 1998 (c.46). See section 61(1) of the 1979 Act for the definition of “prescribed”.

(2) Sections 9I and 9N were inserted by section 6(1) of the Historic Environment (Amendments) (Scotland) Act 2011 (asp 3).

- (c) in the case of compensation payable under section 9I of the Act (compensation for loss due to stop notice) the date on which the stop notice ceases to have effect;
- (d) in the case of compensation payable under section 9N of the Act (temporary stop notices: compensation)—
  - (i) in the circumstances set out in section 9N(2)(a) of the Act, the date on which the temporary stop notice is first displayed; or
  - (ii) in the circumstances set out in section 9N(2)(b) of the Act, the date on which the temporary stop notice is withdrawn;
- (e) in the case of compensation recoverable under section 46 of the Act (compensation for damage caused by exercise of certain powers under the Act), the date on which the damage was caused or, where the damage was caused as a result of a continuing act, the date when the act ceased.

### **Electronic communication**

3.—(1) Where the criteria in paragraph (2) are met, a claim may be sent by electronic communication.

(2) The criteria are that—

- (a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive the document electronically; and
- (b) any document sent by the electronic communication is—
  - (i) capable of being accessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communication is deemed to have agreed—

- (a) to the use of electronic communication for all purposes relating to the claim which are capable of being carried out electronically; and
- (b) that the address for the purpose of electronic communication is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement by a person under paragraph (3) exists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communication or of revocation of agreements under paragraph (4), takes effect on a date specified by the person in the notice, but not less than 7 days after the date on which the notice was given.

(6) In this regulation—

“address” includes any number or address used for the purpose of electronic communication or storage;

“document” includes any notice, consent, decision, representation, statement, list, report, form, plan, certificate, or other information or communication;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(3);

“legible in all material respects” means that the information is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

“sent” includes made and related expressions are to be construed accordingly.

## **Revocation**

**4.**—(1) The Ancient Monuments and Archaeological Areas (Compensation) (Scotland) Regulations 1981<sup>(4)</sup> are revoked.

(2) Those Regulations continue to have effect as they had effect immediately before 1st December 2011 in relation to a claim for compensation made before that date.

St Andrew's House,  
Edinburgh  
27th October 2011

*FIONA HYSLOP*  
A member of the Scottish Executive

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<sup>(4)</sup> S.I. 1981/1469.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations provide for the manner and the time within which claims for compensation under sections 7, 9, 9I, 9N and 46 of the Ancient Monuments and Archaeological Areas Act 1979 are to be made.