

## **POLICY NOTE**

### **THE SCHEDULED MONUMENT CONSENT PROCEDURE (SCOTLAND) REGULATIONS 2015**

**SSI 2015/229**

The above instrument was made in exercise of the powers conferred by sections 2, 3A, 3C and 60 of, and paragraphs 1, 2(2), (2A) and (3), 3(2) and 11(3)(a) of Schedule 1 to the Ancient Monuments and Archaeological Areas Act 1979. This instrument is subject to negative procedure.

#### **Policy Objectives**

The purpose of these Regulations is to provide for the procedures to be followed by all parties in relation to applications for scheduled monument consent, applications for the variation and discharge of conditions and applications for subsequent approval required by a condition to which scheduled monument subject.

The effective date for these regulations is 1 October 2015, the date on which Historic Environment Scotland (HES) takes over its full responsibilities under the Historic Environment Act 2014 (“the 2014 Act”).

HES is a new NDPB established by the 2014 Act. It will act as the lead body for the historic environment taking on the functions currently carried out by Historic Scotland for Scottish Ministers and the Royal Commission for the Ancient and Historical Monuments of Scotland. In particular, HES will take on the function of receiving and determining applications for scheduled monument consent, previously carried out by the Scottish Ministers through Historic Scotland. Ministers will have a call-in facility for certain applications. HES will also take on the functions of varying and discharging consent conditions, and enforcing of conditions.

The Regulations set out that applications for scheduled monument consent must be made on a form obtained from HES and specifies the minimum information content and accompanying documentation. Similar provision is made for applications for the variation and discharge of conditions attached to an existing scheduled monument consent.

The Regulations also place certain requirements on HES in terms of acknowledging applications for consent, (including advising applicants of their rights of appeal and informing applicants if there is any deficiency in an application, with advice as to how this may be rectified), publishing applications on the internet and making inspection copies available at HES principal office, and the issuing and publication of decisions.

Provision is also made in respect of the procedure to be followed by HES where Ministers have directed that an application be referred to them instead of being dealt with by HES. This is a new Ministerial power introduced by section 15 and schedule 2 Part 5 of the 2014 Act which mirrors that available under planning and listed building legislation and which is commonly referred to as “call-in”.

The Regulations also set out the publication requirements for HES where revocation or modification orders relating to consents, issued under paragraph 11(3)(a) of Schedule 1 to the Act, are unopposed.

### **Consultation**

The policy approach adopted in these regulations was informed by discussions with key stakeholders prior to finalisation of draft regulations. The draft regulations were then the subject of a formal public consultation between 19 December 2014 and 27 March 2015. No representations were received suggesting any modifications in respect of these specific regulations.

### **Impact Assessments**

An Equalities Impact Assessment (EQIA) has been carried out for these Regulations, in combination with several other instruments being laid at this time. It is not considered that these particular Regulations will have any impact as distinct from the matters already considered as part of the original EQIA carried out prior to introduction of the Bill for the 2014 Act.

### **Financial Effects**

A Business and Regulatory Impact Assessment (BRIA) has been completed for these regulations, in combination with several other instruments being laid at this time. It is not considered that there is any negative impact as distinct from the matters already considered as part of the original BRIA carried out prior to the introduction of the Bill for the 2014 Act.,

Scottish Government  
Culture, Europe and External Affairs Directorate  
2 June 2015