

POLICY NOTE

THE LISTED BUILDINGS (NOTIFICATION AND PUBLICATION) (SCOTLAND) REGULATIONS 2015

SSI 2015/241

The above instrument was made in exercise of the powers conferred by section 1A of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (“the 1997 Act”). Section 1A was inserted by the Historic Environment Scotland Act 2014. This instrument is subject to negative procedure.

Policy Objectives

The purpose of these Regulations is to make provision in respect of the notification and publication requirements for Historic Environment Scotland (HES) where a listed building is either included in or excluded from the list of buildings of special architectural or historic interest compiled under section 1 of the 1997 Act (“the list”), or where an entry relating to a building in that list is amended after 1st October 2015.

HES is a new NDPB established by the 2014 Act. It will act as the lead body for the historic environment. HES will take on the function of maintaining the list of buildings protected under the 1997 Act, previously carried out by the Scottish Ministers through Historic Scotland. HES will be able to include any building of special architectural or historic interest in the list. HES will also be able to exclude a building from the list or amend an entry in the list relating to any building.

These Regulations come into force on 1 October 2015, the date on which HES takes over its full responsibilities under the 2014 Act.

These Regulations set out, in respect of the notification of the inclusion of a building in the list, the removal of a building from the list or the amendment of an entry relating to a building in the list that :

- The persons to be notified are the owner of the building, the occupier of the building and the local authority in whose area the monument is located ;(regulation 3(2)). The exception to this is where a building is excluded from the list where that building has been demolished. In such cases, the only requirement is to notify the local authority in whose area the building is situated (regulation 3(5)).
- notification of such persons is to be as soon as is reasonably practicable after such inclusion, exclusion or amendment (regulation 3(3)).
- the notice must contain a description of the location of the building and where, a building is included in the list or an entry in the list relating to a building is amended, include a copy a copy of the entry in the list relating to the building (regulation 3(4))

The inclusion of the relevant local authority as a person to be notified is to ensure that such authorities have up to date information to allow them to exercise their statutory responsibilities in relation to listed buildings and conservation areas under the 1997 Act and under a range of other legislation.

Regulation 4 defines the methods by which a notice may be served, including (where consent has been obtained) electronic means, and defines the procedure to be followed where a name or address of an owner or occupier cannot be identified after reasonable inquiry.

Regulation 5 requires the list to be published on the internet and for a copy of the list to be made available for inspection at HES' principal office. This will make it possible for the public to have access to a copy of the list which is always up to date.

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 subject to a formal public consultation between 19 December 2014 and 27 March 2015. No representations were received suggesting any modifications, other than the observation that online publication should be supplemented by other means for those who do not find it easy to access online resources.

Impact Assessments

An Equalities Impact Assessment (EQIA) has been carried out for these regulations, in combination with several other regulations being laid at this time. It is not considered that this particular regulation 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, especially as HES has been made subject to the public sector equalities duty from 1 April 2015. The matter noted under consultation will be addressed by HES making printed copies of list entries available upon request, if necessary in alternative formats.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed for these Regulations, in combination with several other regulations being laid at this time. It is not considered that these specific Regulations will have 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, while it is considered that publication of the list on the internet, and notification of relevant local authorities, will have a positive impact by enhancing access to up to date information for all interested parties, thus reducing the risk of unnecessary activity founded on out of date information.

Scottish Government
Culture, Europe and External Affairs Directorate
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