



Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

1997 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER I

LISTING OF SPECIAL BUILDINGS

1 Listing of buildings of special architectural or historic interest.

- (1) For the purposes of this Act and with a view to the guidance of planning authorities in the performance of their functions under this Act in relation to buildings of special architectural or historic interest, [^{F1}the Secretary of State][^{F1}Historic Environment Scotland] shall compile lists of such buildings or approve, with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved.
- (2) In considering whether to include a building in a list compiled or approved under this section, [^{F2}the Secretary of State][^{F2}Historic Environment Scotland] may take into account not only the building itself but also—
 - (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part, and
 - (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.
- (3) Before compiling or approving, with or without modifications, any list under this section or amending any such list [^{F3}the Secretary of State][^{F3}Historic Environment Scotland] shall consult such persons or bodies of persons as appear to [^{F4}him][^{F4}it]

Status: Point in time view as at 27/02/2015.

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appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.

- (4) In this Act “listed building” means a building which is for the time being included in a list compiled or approved by [^{F5}the Secretary of State][^{F5}Historic Environment Scotland] under this section; and, for the purposes of this Act, the following shall be treated as part of the building—
- (a) any object or structure fixed to the building, and
 - (b) any object or structure within the curtilage of the building which, though not fixed to the building, forms part of the land and has done so since before 1st July 1948.
- (5) Schedule 1 (which makes provision as to the treatment as listed buildings of certain buildings formerly subject to building preservation orders) shall have effect.

Textual Amendments

- F1** Words in s. 1(1) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 2\(a\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F2** Words in s. 1(2) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 2\(b\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F3** Words in s. 1(3) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 2\(c\)\(i\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F4** Word in s. 1(3) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 2\(c\)\(ii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F5** Words in s. 1(4) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 2\(d\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

[^{F6}1A Publication of lists and notification of listing etc.

- (1) Historic Environment Scotland must—
- (a) publish any list compiled or approved under section 1, and any amendments of such a list, and
 - (b) make such lists available for public inspection, in such manner as may be prescribed.
- (2) Historic Environment Scotland must also—
- (a) notify such persons as may be prescribed, and
 - (b) do so in such form and manner, and within such time, as may be prescribed, of the inclusion of a building in, the amendment of an entry relating to a building in or the exclusion of a building from such a list.
- (3) The Scottish Ministers may by regulations make further provision for—
- (a) the publication of such lists,
 - (b) the making of such lists available for public inspection,
 - (c) the notification of the inclusion of a building in, the amendment of an entry relating to a building in or the exclusion of a building from such a list.
- (4) Regulations under subsection (3) may in particular provide for planning authorities in whose districts any buildings included in such lists are situated to take any of the steps mentioned in that subsection.]

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Textual Amendments

- F6** S. 1A inserted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 3](#) (with [ss. 29, 30](#)); [S.S.I. 2015/31](#), art. 2, sch.

2 Publication of lists.

- [^{F7}(1) As soon as possible after any list has been compiled or approved under section 1, or any amendments of such a list have been made, a copy of so much of the list as relates to the district of any planning authority or the area of the local authority for the purposes of the ^{M1}Housing (Scotland) Act 1987, or of so much of the amendments as so relates, certified by or on behalf of the Secretary of State to be a true copy, shall be deposited with the clerk of that authority.
- (2) As soon as possible after the inclusion of any building in a list under section 1, whether on the compilation or approval of the list or by amendment, or as soon as possible after any such list has been amended by the exclusion of any building from it—
- the Secretary of State shall inform the planning authority in whose district the building is situated of the inclusion or exclusion, and
 - the planning authority shall serve a notice in the prescribed form on every owner, lessee and occupier of the building, stating that the building has been included in, or excluded from, the list.
- (3) The Secretary of State shall keep available for public inspection, free of charge, at reasonable hours and at a convenient place, copies of all lists and amendments of lists compiled, approved or made by him under section 1.
- (4) Every authority with whose clerk copies of any list or amendments are deposited under this section shall similarly keep available copies of so much of any such list or amendment as relates to buildings within their district or area.]

Textual Amendments

- F7** S. 2 repealed (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 4](#) (with [ss. 29, 30](#)); [S.S.I. 2015/31](#), art. 2, sch.

Marginal Citations

- M1** 1987 c. 26.

3 Temporary listing: building preservation notices.

- (1) If it appears to a planning authority that a building in their district which is not a listed building—
- is of special architectural or historic interest, and
 - is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest,
- they may serve on the owner, lessee and occupier of the building a notice (in this Act referred to as a “building preservation notice”).
- (2) A building preservation notice shall—

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- (a) state that the building appears to the planning authority to be of special architectural or historic interest and that they have requested [^{F8}Historic Environment Scotland] to consider including it in a list compiled or approved under section 1, and
 - (b) explain the effect of subsections (3) to (5) and Schedule 2.
- (3) A building preservation notice—
- (a) shall come into force as soon as it has been served on the owner, lessee and occupier of the building to which it relates, and
 - (b) subject to subsection (4), shall remain in force for 6 months from the date when it is served or, as the case may be, last served.
- (4) A building preservation notice shall cease to be in force if [^{F9}Historic Environment Scotland] —
- (a) includes the building in a list compiled or approved under section 1, or
 - (b) notifies the planning authority in writing that [^{F10}it] does not intend to do so.
- (5) While a building preservation notice is in force with respect to a building, the provisions of this Act (other than section 53) and the principal Act shall have effect in relation to the building as if it were a listed building.
- (6) If, following the service of a building preservation notice, [^{F11}Historic Environment Scotland] notifies the planning authority that [^{F12}it] does not propose to include the building in a list compiled or approved under section 1, the authority—
- (a) shall immediately give notice of [^{F13}Historic Environment Scotland's] decision to the owner, lessee and occupier of the building, and
 - (b) shall not, within the period of 12 months beginning with the date of [^{F14}Historic Environment Scotland's] notification, serve another building preservation notice in respect of the building.

Textual Amendments

- F8** Words in s. 3(2) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 5\(a\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F9** Words in s. 3(4) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 5\(b\)\(i\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F10** Word in s. 3(4)(b) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 5\(b\)\(ii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F11** Words in s. 3(6) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 5\(c\)\(i\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F12** Word in s. 3(6) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 5\(c\)\(ii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F13** Words in s. 3(6)(a) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 5\(c\)\(iii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F14** Words in s. 3(6)(b) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 5\(c\)\(iii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

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Modifications etc. (not altering text)

- C1** S. 3 savings for effects of 2014 asp 19, Sch. 3 para. 5 (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), arts. 1(1), 14

4 Temporary listing in urgent cases.

- (1) If it appears to the planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner, lessee and occupier of the building to which it relates, affix the notice conspicuously to some object on the building.
- (2) The affixing of a notice under subsection (1) shall be treated for all the purposes of section 3, this section, sections 9 to 24 and Schedule 2 as service of the notice.
- (3) A notice which is so affixed must explain that by virtue of being so affixed it is treated as being served for those purposes.

5 Provisions applicable on lapse of building preservation notice.

Schedule 2 (which makes provision as respects the lapse of building reservation notices) shall have effect.

[^{F15}5A Certificate that building not intended to be listed

- (1) [^{F16}The Scottish Ministers][^{F16}Historic Environment Scotland] may, on the application of any person, issue a certificate stating that [^{F17}they do][^{F17}it does] not intend to include a building in a list compiled or approved under section 1.
- (2) Where [^{F18}the Scottish Ministers issue][^{F18}Historic Environment Scotland issues] a certificate under subsection (1) in respect of a building—
 - (a) [^{F19}they][^{F19}it] may not for a period of 5 years from the date of issue exercise in relation to the building any of the powers conferred on [^{F19}them][^{F19}it] by section 1, and
 - (b) a planning authority may not for that period—
 - (i) serve a building preservation notice in relation to the building, or
 - (ii) affix such a notice under section 4(1).
- (3) A person submitting an application to [^{F20}the Scottish Ministers][^{F20}Historic Environment Scotland] under subsection (1) must, at the same time as submitting it, give notice of the application to the planning authority within whose district the building is situated.]

Textual Amendments

- F15** S. 5A inserted (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 18(1)**, 33(2); S.S.I. 2011/372, art. 2, sch.
- F16** Words in s. 5A(1) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 3 para. 6(a)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F17** Words in s. 5A(1) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 3 para. 6(a)(ii)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

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- F18** Words in s. 5A(2) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\), s. 31\(2\), sch. 3 para. 6\(b\)\(i\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F19** Word in s. 5A(2)(a) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\), s. 31\(2\), sch. 3 para. 6\(b\)\(ii\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F20** Words in s. 5A(3) substituted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\), s. 31\(2\), sch. 3 para. 6\(c\)](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

[^{F21}5B Appeal against listing of buildings

- (1) This section applies where Historic Environment Scotland makes a decision—
 - (a) to include a building in the list compiled or approved under section 1,
 - (b) to amend an entry in the list relating to a building (but not where the amendment excludes a building from the list).
- (2) A person mentioned in subsection (3) may appeal the decision to the Scottish Ministers.
- (3) The person is—
 - (a) the owner of the building,
 - (b) the tenant of the building,
 - (c) the occupier of the building.

Textual Amendments

- F21** Ss. 5B-5D inserted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\), s. 31\(2\), sch. 3 para. 18](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

5C Determination of appeals under section 5B

- (1) The Scottish Ministers may—
 - (a) dismiss an appeal under section 5B,
 - (b) allow such an appeal (in whole or in part).
- (2) Where the Scottish Ministers allow an appeal, they may vary a part of the decision appealed against whether or not the appeal relates to that part of the decision.
- (3) Where the Scottish Ministers allow an appeal, they may direct Historic Environment Scotland to exercise its power under section 1 to amend the list compiled or approved under that section to give effect to their decision.
- (4) Except as provided for by sections 57 and 58, the decision of the Scottish Ministers on an appeal under section 5B is final.

Textual Amendments

- F21** Ss. 5B-5D inserted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\), s. 31\(2\), sch. 3 para. 18](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

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5D Procedure for appeals under section 5B

- (1) Regulations may make provision in connection with appeals under section 5B, including provision about—
 - (a) the grounds on which an appeal may be made,
 - (b) the information that is to be provided to, or may be required by, the Scottish Ministers in connection with the appeal.
- (2) Regulations under subsection (1) may also make provision about the procedure to be followed, including—
 - (a) the form, manner and time for making an appeal,
 - (b) the notification of an appeal,
 - (c) the manner in which an appeal is to be conducted.
- (3) Regulations made by virtue of subsection (2)(c) may also include provision that the manner in which an appeal, or any stage of an appeal, is to be conducted (as for example whether written submissions are to be presented or persons are to be heard) is to be at the discretion of the Scottish Ministers (or of a person appointed by them under this Act).
- (4) Schedule 3 (which makes provision about the determination of certain appeals by a person appointed by the Scottish Ministers) applies to an appeal under section 5B.]

Textual Amendments

F21 Ss. 5B-5D inserted (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014](#) (asp 19), s. 31(2), **sch. 3 para. 18** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

Status:

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Changes to legislation:

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