

1970 No. 1035 (S.77)

TOWN AND COUNTRY PLANNING, SCOTLAND

**The Town and Country Planning (Listed Buildings) (Scotland)
Regulations 1970**

<i>Made - - - -</i>	10th July 1970
<i>Laid before Parliament</i>	23rd July 1970
<i>Coming into Operation</i>	3rd August 1970

ARRANGEMENT OF REGULATIONS

1. Citation and commencement.
2. Interpretation.
3. Applications for listed building consent.
4. Advertisement of applications.
5. Certificates to accompany applications and appeals.
6. Appeals.
7. Claims for compensation and listed building purchase notices.
8. Advertisement of unopposed revocation or modification order.
9. Application of provisions of the Water (Scotland) Act 1946 to listed building enforcement notices.
10. Application of listed building control to buildings of local planning authorities.
11. Form of notice that a building has become, or ceased to be, listed.

SCHEDULES

Schedule 1—Notification to be sent to applicants.

Schedule 2—Certificates to accompany applications and appeals; and related notices.

Schedule 3—Application of certain provisions of the Water (Scotland) Act 1946.

Schedule 4—Notice that a building has become, or ceased to be, listed.

In exercise of the powers conferred on me by sections 22 and 107 of the Town and Country Planning (Scotland) Act 1947(a) and sections 41, 42, 43, 46, 49, 55 and 103 of, and Schedule 4 to, the Town and Country Planning (Scotland) Act 1969(b) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

(a) 1947 c. 53.

(b) 1969 c. 30.

Citation and commencement

1. These regulations may be cited as the Town and Country Planning (Listed Buildings) (Scotland) Regulations 1970 and shall come into operation on 3rd August 1970.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act of 1947” means the Town and Country Planning (Scotland) Act 1947; and

“the Act of 1969” means the Town and Country Planning (Scotland) Act 1969.

(2) The Interpretation Act 1889(a) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Applications for listed building consent

3.—(1) An application to a local planning authority for listed building consent shall be made on a form issued by the local planning authority and obtainable from that authority, and shall include the particulars required by that form to be supplied, and be accompanied by a plan sufficient to identify the building to which it relates and such other plans and drawings as are necessary to describe the works which are the subject of the application, together with two further copies of the form and plans and drawings.

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

(3) The period within which the local 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 receipt of the application by the 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 local planning authority.

(4) Every such notice shall be in writing and where the local 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 1 hereto.

Advertisement of applications

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

(a) publish 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 the 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 seven 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) above.

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

(a) the period of 21 days referred to in sub-paragraph (a) of paragraph (1) above; and

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

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

Certificates to accompany applications and appeals

5.—(1) A local 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 of the preceding sub-paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in the last preceding sub-paragraph as are specified in the certificate (setting out their names, the addresses 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 to 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) above, 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) above 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) above 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) above) 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-paragraph (b), sub-paragraph (c), or sub-paragraph (d) of paragraph (1) above—

- (a) the local 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 local 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 the preceding sub-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 local 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 (a) 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 6 or paragraph 7 of Schedule 4 to the Act of 1969 as they apply in relation to an application for listed building consent which falls to be determined by the local planning authority.

(5) Certificates issued for the purposes of this regulation shall be in the forms set out in Part I of Schedule 2 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 2 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 2 hereto.

(8) For the purposes 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

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

- (a) against a decision of a local planning authority refusing listed building consent or granting consent subject to conditions, or
- (b) on the failure by a local 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 receipt of notice of the decision or of the expiry of the appropriate period allowed under regulation 3(3) above, as the case may be, or such longer period as the Secretary of State may at any time allow.

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

- (a) the application made to the local planning authority;

- (b) all relevant plans, drawings, particulars and documents submitted with the application, including a copy of the certificate given in accordance with regulation 5;
- (c) the notice of the decision, if any; and
- (d) all other relevant correspondence with the local planning authority.

Claims for compensation and listed building purchase notices

7.—(1) A claim for compensation made to a local planning authority under section 43(2) or section 49(3) of, or paragraph 10 of Schedule 4 to, the Act of 1969, or a listed building purchase notice served on a local planning authority under section 42(1) of that Act, shall be in writing and shall be served on that authority by delivering it at the offices of the authority addressed to the clerk thereof, or by sending it so addressed by prepaid post.

(2) The time within any such claim or notice as is mentioned in paragraph (1) above shall be served shall be—

- (a) in the case of a claim for compensation, six months; and
- (b) in the case of a listed building purchase notice, twelve 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

8. Where by virtue of the provisions of paragraph 11(2) of Schedule 4 to the Act of 1969 the making of an order under paragraph 8 of that Schedule in respect of works to a building is required to be advertised, the local planning authority shall publish 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 the said paragraph 11(2) to be specified.

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

9. The provisions set out in Schedule 3 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 an enforcement notice under section 44 of the Act of 1969.

Application of listed building control to buildings of local planning authorities

10.—(1) In relation to buildings of local planning authorities which are listed, and to the execution of works for their demolition, alteration or extension, the provisions of Part V of and Schedule 4 to the Act of 1969, other than sections 42 and 43 and paragraph 10 of Schedule 4 thereof, shall have effect but subject to the exceptions and modifications prescribed in this regulation.

(2) Where listed building consent is required in respect of buildings belonging to local authorities in respect of which they are the local planning authorities, application shall be made to the Secretary of State for that consent.

(a) 1946 c. 42.

(3) Any such application shall—

- (a) be made in the form of an application to the local planning authority;
- (b) be published and displayed by the local planning authority in the same manner as an application made to them for listed building consent and in accordance with the provisions of regulation 4(1) of these regulations; and
- (c) be deemed to have been referred to the Secretary of State under paragraph 3 of Schedule 4 to the Act of 1969;

and the provisions of the said paragraph 3 of Schedule 4 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 local planning authority, the Secretary of State may serve any notice authorised to be served by a local planning authority in relation to a listed building.

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

11. The forms set out in Schedule 4 hereto (or forms substantially to the like effect) are the prescribed forms of notice for the purposes of subsection (4) of section 28 of the Act of 1947.

Gordon Campbell,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.
10th July 1970.

SCHEDULE 1

Regulation 3

Notification to be sent to applicant on refusal of listed building consent or grant of consent subject to conditions

1. If the applicant is aggrieved by the decision of the local planning authority to refuse listed building consent for the proposed works, or to grant consent subject to conditions, he may, by notice served within six months of receipt of this notice, appeal to the Secretary of State in accordance with paragraph 6 of Schedule 4 to the Town and Country Planning (Scotland) Act 1969. 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 local 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 local 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 local 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 Part V of the Town and Country Planning (Scotland) Act 1969.

3. In certain circumstances a claim may be made against the local 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 the application to him. The circumstances in which such compensation is payable are set out in section 43 of the Town and Country Planning (Scotland) Act 1969.

Regulation 5

SCHEDULE 2

PART I

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

Certificate under Schedule 4, paragraph 2

*Certificate A** I hereby certify that:—
 I am
 *The applicant is *the proprietor of the dominium utile of every
 The appellant is the lessee under a lease
 part of the land (a) to which the accompanying *application
 dated.....relates. appeal

Or:—

*Certificate B** I hereby certify that:—
 I have
 *The applicant has given the requisite notice to all the persons
 The appellant has
 who, 21 days before the date of the accompanying *application,
 were owners of any of the land (a) to which the *application
 relates, viz:— appeal

Name of owner	Address	Date of service of notice
---------------	---------	------------------------------

Or:—

*Certificate C** I hereby certify that:—
 I am
 1. *The applicant is unable to issue a certificate in accordance
 The appellant is
 with either sub-paragraph (a) or sub-paragraph (b) of regulation 5(1)
 of the Town and Country Planning (Listed Buildings) (Scotland)
 Regulations 1970 in respect of the accompanying *application
 dated..... appeal

*Delete where inappropriate

*I have taken the steps listed below, being steps reasonably open
He has
to *me, to ascertain the names and addresses of any of the owners
him
of any of the land (a) to which the *application relates and *have
appeal has
been unable to do so:

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

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

Copy of notice as published

Signed.....
*[On behalf of.....
Date.....

Notes

- (a) For the purposes 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).

PART II

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

Notice under Schedule 4, paragraph 2, 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 [Town] [County]* Council of
.....(b) 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 the [Town
Clerk] [County Clerk]* at.....(e).

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

*Delete where inappropriate

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

Notice under Schedule 4, paragraph 2, 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 [Town] [County]* Council of.....(b) 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 the [Town Clerk] [County Clerk]* at.....(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 local planning authority.
(c) Insert name of applicant.
(d) Insert description of proposed works and name, address, or location of building.
(e) Insert address of local planning authority.

PART III

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

Notice under Schedule 4, paragraph 6, 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 [Town] [County]* Council of.....(c)

or

* (ii) on the failure of the [Town] [County]* Council of(c) 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, St Andrew's House, Edinburgh.

Signed.....

[On behalf of.....]*

Date.....

*Delete where inappropriate

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 44 of the Town and Country Planning (Scotland) Act 1969, 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 4

Regulation 11

Notice that a building has become listed

**IMPORTANT—This communication affects YOUR
PROPERTY**

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS 1947 TO 1969
CIVIC AMENITIES ACT 1967
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 28 of the Town and
Country Planning (Scotland) Act 1947 on.....19.....

Dated.....19.....

[Town Clerk]
[County Clerk]

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 28 of the Town and Country Planning (Scotland) Act 1947.

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 local planning authority (The Town/County Council of.....) 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.

Works which are urgently necessary in the interests of safety or of health, or to preserve the building, may be carried out at any time without prior consent provided that you notify the local 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 local planning authority should refuse consent for the carrying out of any proposed works, section 41(6) of the Town and Country Planning (Scotland) Act 1969 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 the provisions of the Town and Country Planning (Scotland) Act 1969, Part V and Schedule 4, and of the Town and Country Planning (Listed Buildings) (Scotland) Regulations 1970.

Notice that a building has ceased to be listed

**IMPORTANT—This communication affects YOUR
PROPERTY**

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS 1947 TO 1969
CIVIC AMENITIES ACT 1967
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 28 of the Town and
Country Planning (Scotland) Act 1947 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.....

[Town Clerk] [County Clerk]

Explanatory Note

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

**Insert reason for exclusion*

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations prescribe the manner in which applications for listed building consent under Part V of the Town and Country Planning (Scotland) Act 1969 are to be made and advertised, and the manner in which appeals may be made by persons aggrieved by decisions of local planning authorities under that Part of the Act.

The Regulations also deal with the making of claims for compensation arising from the application of listed building control, the serving of listed building purchase notices, the advertising of unopposed orders revoking or modifying listed building consents, and the execution of works under listed building enforcement procedure. Provision is made for applying Part V of the Act in relation to works affecting listed buildings belonging to local planning authorities. Forms of notices are prescribed for notifying the owner, lessee and occupier of a building when it has become listed, or has ceased to be listed.

SI 1970/1035
ISBN 0-11-001035-3



780110 010359