
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 569

**The Transport and Works (Scotland) Act 2007
(Consents under Enactments) Regulations 2007**

Modification of procedures for listed building consent and conservation area consent

5.—(1) This regulation shall apply where listed building consent or conservation area consent is required for the purposes of proposals included in a section 4 application or a section 6 proposal and either—

- (a) the application for any such consent has been made not later than 10 weeks after the section 4 application has been made, or notice of the section 6 proposal has been published pursuant to section 6(3)(b) of the Act, as the case may be; or
- (b) the Scottish Ministers direct that this regulation apply.

(2) Where this regulation applies, section 11 of the 1997 Act (reference of certain applications to the Scottish Ministers)⁽¹⁾ shall have effect with the following modifications—

- (a) for subsection (1) substitute—

“(1) An application for listed building consent shall be referred to the Scottish Ministers instead of being dealt with by the planning authority.”; and
- (b) subsections (2) and (3) are omitted.

(3) Where this regulation applies, the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987⁽²⁾ shall have effect with the following modifications—

- (a) in regulation 5 (advertisement of applications)—
 - (i) for paragraph (1) substitute—

“(1) Where an application for listed building consent, for conservation area consent or to vary or discharge conditions attached to a listed building consent or a conservation area consent is made to a planning authority in respect of any building—

 - (a) the applicant shall not earlier than 14 days before, and not later than, the date of the application, publish in the Edinburgh Gazette and in a local newspaper circulating in the locality in which the building is situated a notice—
 - (i) indicating the nature of the works which are the subject of the application;
 - (ii) naming a place within that 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 specified in the notice, being a period of not less than 42 days from the date on which the application is made; and

(1) Section 11 of the 1997 Act also has effect in relation to buildings in conservation areas by virtue of section 66(3) of that Act.
(2) S.I.1987/1529 as amended by S.S.I. 2004/332, 2006/266, 2006/270 and 2007/221.

(iii) stating that representations may be made in writing to the planning authority within that period,

and such notice may be combined with such notice of the concurrent application as the applicant is required, by either rules made under section 4 of the Transport and Works (Scotland) Act 2007 (applications)⁽³⁾, or section 6(3)(b) of that Act (orders made otherwise than on application), to publish in the Edinburgh Gazette and in a local newspaper; and

(b) the planning authority shall, for not less than 7 days during the period specified in the notice under sub paragraph (a) of this paragraph by virtue of paragraph (ii) of that sub paragraph, display on or near the building a notice containing the same particulars as are required to be contained in the notice under that sub paragraph.”;

(ii) for paragraph (2) substitute–

“(2) No application for listed building consent, for conservation area consent, or to vary or discharge conditions attached to a listed building consent or a conservation area consent shall be determined before the end of the period specified in the notice under sub paragraph (a) of paragraph (1) by virtue of paragraph (ii) of that sub paragraph, and in the determination of the application account shall be taken of any representations relating to the application which are received before that period has elapsed.”; and

(iii) after paragraph (3) insert–

“(4) In this regulation, “concurrent application” means an application made under section 4 of the Transport and Works (Scotland) Act 2007, or a proposal by the Scottish Ministers to make an order by virtue of section 6 of that Act, relating to proposals for the purposes of which the granting of listed building consent or conservation area consent is required in respect of the building to which the application for listed building consent or conservation area consent relates.”;

(b) in regulation 6 (certificates to accompany applications)–

(i) after paragraph (1)(a) insert–

“(aa) a certificate stating that–

(i) notice of the application under section 4 of the Transport and Works (Scotland) Act 2007 relating to proposals for the purposes of which the granting of listed building consent or conservation area consent is required in respect of the building has been given in accordance with rules made under that section to all of the persons (other than the applicant) who were, at the beginning of the period of 28 days ending with the date of the application under that section, the owners of the building; and

(ii) every such notice contains a statement that the application for listed building consent or conservation area consent has been, or is to be, made in respect of the building.”;

(ii) in paragraph (1)(c), for the word “either” substitute “any”;

(iii) for paragraph (4) substitute–

“(4) For the purposes of this regulation, “owner” in relation to any building means any person who under the Lands Clauses Acts would be enabled to sell and convey

the land to the promoters of an undertaking and includes a lessee under a lease the unexpired period of which exceeds three years.”; and

(iv) in paragraph (5), for the words from “Secretary of State” where they occur in the first place to “section 262A(8) of the Act” substitute “Scottish Ministers under section 11(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, or in relation to that provision as applied to buildings in conservation areas by section 66(3) of that Act”;

(c) for regulation 7(3) (documents to accompany applications for listed building and conservation area consent in respect of Crown land) substitute–

“(3) After paragraph (1) insert–

“(1A) An application for listed building or conservation area consent by the Scottish Ministers shall be accompanied by–

- (a) a statement that the application is made for the purposes of proposals included in a proposal by the Scottish Ministers to make an order by virtue of section 6 of the Transport and Works (Scotland) Act 2007; and
- (b) where the application is made by a person authorised in writing by the Scottish Ministers, a copy of that authorisation.”; and

(d) in Part I of Schedule 2, after Certificate A, insert–

“*Certificate AA*

I hereby certify that–

(1) [I have][the applicant has] served, in accordance with rules made under section 4 of the Transport and Works (Scotland) Act 2007, all the notices required to be served upon the persons (other than the applicant) who were, at the beginning of a period of 28 days ending with the date of an application under that section, the owners of the building;

(2) every such notice contains a statement that the accompanying application for [listed building] [and] [conservation area] consent has been made in respect of the building;

or”.