POLICY NOTE

THE SCHEDULED MONUMENTS AND LISTED BUILDINGS (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2015

SSI 2015/328

The above instrument was made in exercise of the powers conferred by sections 1(6), 4D and 9CB of the Ancient Monuments and Archaeological Areas Act 1979), sections 1A, 9(3), 23(2) and 82 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and sections 14 and 28 of the Transport and Works (Scotland) Act 2007. This instrument is subject to negative procedure.

Policy Objectives

The principal purpose of these regulations is to set out revised procedures in relation to applications for listed building and conservation area consent and for scheduled monument consent where such consents are applied for in respect of a proposal under the Transport and Works (Scotland) Act 2007.

The need for revised procedures arises from recent changes to procedures which apply more generally to applications for listed building and conservation area consent and for scheduled monument consent, so as to accommodate new roles and responsibilities related to the creation of Historic Environment Scotland, which body will take over several functions which presently lie with the Scottish Ministers. Regulation 2 of these regulations updates the 2007 Regulations so that they align with those revised procedures.

The remaining provisions of these regulations make amendments to address minor imperfections in four recent Instruments:-

Regulation 3 amends corrects two sub-paragraph cross-references in the Scheduled Monument (Appeals) (Scotland) Regulations 2015 and also changes a reference to planning authorities to read as one to Historic Environment Scotland, to accord with the intention of those regulations.

Regulation 4 amends two minor technical errors in the Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015.

Regulation 5 amends reference in the Listed Buildings (Notification and Publication) (Scotland) Regulations 2015 to include reference to an amendment to an entry in the list of buildings to include an amendment to that list, so as to cover the full range of circumstances which are relevant.

Regulation 6 amends reference in the Scheduled Monuments (Notification and Publication) (Scotland) Regulations 2015 to have the same effect in relation to the schedule of monuments.

Consultation

The intention to insert HES as a consultation body in a wide range of planning-related processes and to transfer to it a range of statutory responsibilities which presently lie with the Scottish Ministers was welcomed when it was addressed in consultation before and discussions during the passage of the Historic Environment Scotland Act 2014. The principle of aligning related procedures in the wider field of planning, and making the regulations required, was consulted upon formally consultation between 19 December 2014 and 27 March 2015. Regulation 2 of these regulations completes the suite of necessary changes.

The Delegated Powers and Law Reform Committee recommended the change set out in in Regulation 3 when scrutinising the preceding instrument, and the remaining regulations make minor technical adjustments only to adjust drafting imperfections.

Given that the changes made by these regulations complete and perfect the dispositions recently made, without adjusting the policy intentions, it is not considered that separate formal consultation is necessary.

Impact Assessments

An Equalities Impact Assessment (EQIA) was undertaken on the suite of proposed changes in regulations following the passage of the Historic Environment Scotland Act 2014. It is not considered that these particular regulations will have any impact in relation to equalities.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) was completed for related recent regulations. It is not considered that these particular regulations will have any negative impact, especially given that they preserve an existing arrangement which is very rarely used.

Scottish Government
Culture, Europe and External Affairs Directorate
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