POLICY NOTE

THE SCHEDULED MONUMENTS (NOTIFICATION AND PUBLICATION) (SCOTLAND) REGULATIONS 2015

SSI 2015/230

The above instrument was made in exercise of the powers conferred by sections 1(6) and 1B of the Ancient Monuments and Archaeological Areas Act 1979 ("the 1979 Act"). Section 1(6) is amended by and section 1B inserted by the Historic Environment Scotland Act 2014. This instrument is subject to negative procedure.

Policy Objectives

The purpose of these Regulations is make provision in respect of the notification and publication requirements for Historic Environment Scotland (HES) where a scheduled monument is either included in or excluded from the Schedule of monuments in terms of section 1 of the 1979 Act or where an entry relating to a monument in that Schedule is amended.

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 Schedule of monuments protected under the 1979 Act, previously carried out by the Scottish Ministers through Historic Scotland. HES will be able to include any monument in the Schedule which appears to it to be of national importance. HES will also be able to exclude a monument from the Schedule or amend the entry in the Schedule relating to any monument.

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 monument in the Schedule, the removal of a monument from the Schedule or the amendment of an entry in the Schedule relating to a monument that:

- The persons to be notified of such inclusion, exclusion or amendment are the owner of the monument, the occupier of the monument and the local authority in whose area the monument is located (regulation 3(2));
- 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 monument and where a monument is included in the Schedule or an entry in the Schedule relating to a monument is amended, include a copy of the entry in the Schedule relating to the monument (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 responsibilities in relation to the scheduled monuments in their area.

Regulation 4 defines the methods by which such notification may be given, 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 Schedule to be published on the internet and for a copy of the Schedule to be made available for inspection at HES's principal office. This means the public to have access to a copy of the Schedule 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 that 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 the Schedule 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 Schedule 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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