POLICY NOTE

THE TOWN AND COUNTRY PLANNING (DETERMINATION OF APPEALS BY APPOINTED PERSONS) (PRESCRIBED CLASSES) (SCOTLAND) AMENDMENT REGULATIONS 2015

SSI 2015/236

The above instrument was made in exercise of the powers conferred by paragraph 1 of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 ("the 1997 Act"). This instrument is subject to negative procedure.

Policy Objectives

These Regulations amend the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 2010.

The purpose of these Regulations is to provide that appeals to the Scottish Ministers against decisions by Historic Environment Scotland (HES) under section 5B of the 1997 Act may be determined by persons appointed for the purpose by the Scottish Ministers instead of being determined by the Scottish Minsters.

HES is a new NDPB established by the Historic Environment Scotland Act 2014 ("the 2014 Act"). It will act as the lead body for the historic environment. It will take on the functions currently carried out by Historic Scotland for Scottish Ministers and the Royal Commission on the Ancient and Historical Monuments of Scotland including the function of maintaining the list of buildings protected under the 1997 Act, previously carried out by Historic Scotland. HES will be able to include any building of special architectural or historic interest in the list. HES will also be able to exclude a building from the list or amend an entry in the list relating to any building.

Section 5B of the 1997 Act is inserted by the 2014 Act. It introduces a new right of appeal allowing appeals to be made to by the owner, tenant or occupier of a building to the Scottish Ministers against a decision of HES –

(a) to include a building in the list of buildings of special architectural or historic interest compiled or approved under section 1 of the 1997 Act; or

(b) to amend an entry in the list relating to the building except where such an amendment excludes a building from the list.

Schedule 3 of the 1997 Act is amended by the 2014 Act to enable an appeal under section 5B to be determined by persons appointed by the Scottish Ministers.

Regulation 2 of these Regulations amends regulation 4 of the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 2010 to extend the classes of appeal which are to be determined by persons appointed for the purpose by Scottish Ministers to include appeals under section 5B of the 1997 Act.

These regulations come into force on 1 October 2015, the date on which HES takes over its full responsibilities under the 2014 Act.

Consultation

The principle of appeal against listing decisions was widely welcomed when it was proposed as part of the Bill which became the 2014 Act. The policy approach adopted in these Regulations, which is to allow appeals to be determined by appointed persons, was informed by discussions with key stakeholders prior to finalisation of draft regulations and is in harmony with how other appeals under the 1997 Act may be dealt with. The draft regulations were then the subject of a formal public consultation between 19 December 2014 and 27 March 2015. No representations were received suggesting any modifications in respect of this regulation.

Impact Assessments

An Equalities Impact Assessment (EQIA) has been carried out for these Regulations, in combination with several other instruments 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.

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 there is 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.

Scottish Government
Culture, Europe and External Affairs Directorate
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