

2015 No. 237

TOWN AND COUNTRY PLANNING

**The Town and Country Planning (Historic Environment
Scotland) Amendment Regulations 2015**

Made - - - - - *2nd June 2015*

Laid before the Scottish Parliament *4th June 2015*

Coming into force - - - *1st October 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), section 23D, 30, 32, 40, 43 and 275 of the Town and Country Planning (Scotland) Act 1997(b) and all other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the Town and Country Planning (Historic Environment Scotland) Amendment Regulations 2015 and come into force on 1st October 2015.

Amendment of the Environmental Impact Assessment (Scotland) Regulations 1999

2.—(1) The Environmental Impact Assessment (Scotland) Regulations 1999(c) are amended in accordance with paragraph (2).

(2) In regulation 55 (interpretation)—

(a) after the definition of “the Act” insert—

““the consultation bodies” means—

- (a) any planning authority, where the drainage works are likely to affect land in their area;
- (b) Scottish Natural Heritage;
- (c) Scottish Water;
- (d) the Scottish Environment Protection Agency;
- (e) Historic Environment Scotland; and

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3), the Legislative and Regulatory Reform Act 2006 (c.51), section 27, and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) 1997 c.8. Section 23D was inserted by section 2 of the Planning etc. (Scotland) Act 2006 (asp 17), section 32 was inserted by section 7 of the Planning etc. (Scotland) Act 2006. There are amendments to sections 30, 40 and 43 which are not relevant to these regulations. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(c) S.S.I. 1999/1 to which there are amendments which are not relevant to these Regulations.

- (f) other bodies designated by statutory provision as having specific environmental responsibilities and which the Scottish Ministers consider are likely to have an interest in the application;”;
- (b) omit paragraph (c)(i).

Amendment of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008

3.—(1) Subject to paragraph (3), the Town and Country Planning (Development Planning) (Scotland) Regulations 2008(a) are amended in accordance with paragraph (2).

(2) After regulation 28(2)(a) (key agencies) insert—

“(aa) Historic Environment Scotland;”.

(3) Historic Environment Scotland is not specified as a key agency for the purposes of—

- (a) section 9(4)(a) of the Act in respect of a main issues report published under section 9(6) of the Act before 1st October 2015;
- (b) section 10(1)(b)(i) and (d) of the Act in respect of a proposed strategic development plan published under section 10(1)(a) of the Act before that date;
- (c) section 17(4)(a) of the Act in respect of a main issues report published under section 17(6) of the Act before that date;
- (d) section 18(1)(b) and (d) of the Act in respect of a proposed local development plan published under section 18(1)(a) of the Act before that date; and
- (e) section 21(3)(a) of the Act in respect of a proposed action programme published under section 21(4) of the Act before that date.

(4) In this regulation, “the Act” means the Town and Country Planning (Scotland) Act 1997(b).

Amendment of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011

4.—(1) Subject to paragraphs (5) and (6), the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011(c) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation) in the definition of “the consultation bodies” for paragraph (e) substitute—

“(e) Historic Environment Scotland;”.

(3) For regulation 19(1)(b) (consultation where environmental statement received by planning authority) substitute—

“(b) send to the Scottish Ministers a copy of the statement;”.

(4) In regulation 35(2)(a) (marine fish farming) after “situated” insert—

“; and

(h) the Scottish Ministers.”.

(5) Historic Environment Scotland are not to be treated as a consultation body for the purposes of—

- (a) paragraph (3)(a)(ii) of regulation 14 (scoping opinions of the planning authority) of the 2011 Regulations in respect of request a under that regulation where the planning authority have consulted the Scottish Ministers in relation to that request before 1st October 2015;

(a) S.S.I. 2008/426 to which there are amendments which are not relevant to these Regulations.

(b) 1997 c.8. Sections 9, 10, 17, 18 and 21 were inserted by section 2 of the Planning etc. (Scotland) Act 2006 (asp 17).

(c) S.S.I. 2011/139 to which there are amendments which are not relevant to these Regulations.

(b) paragraph (1)(c) of regulation 19 (consultation where environmental statement received by planning authority) of the 2011 Regulations in respect of an EIA application where the planning authority have sent a copy of the environmental statement received in connection with that EIA application to the Scottish Ministers before 1st October 2015.

(6) Where the Scottish Ministers have been notified under paragraph (3)(a) of regulation 16 (procedure to facilitate preparation of environmental statements) of the 2011 Regulations before 1st October 2015 such notification is to be treated as notification to Historic Environment Scotland for the purposes of that paragraph and paragraph (4) of that regulation.

(7) In this regulation—

“the 2011 Regulations” means the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011; and

“environmental statement” and “EIA application” have the meaning given in regulation 2(1) of the 2011 Regulations.

Amendment of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

5.—(1) Subject to paragraph (4), the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013(a) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 3 (interpretation), for the definition of “category A listed building” substitute—

““category A listed building” means a listed building specified as being category A in a list of buildings compiled or approved under section 1 of the Listed Buildings Act(b) (listing of buildings of special architectural or historic interest);”.

(3) In Schedule 5 (consultation by the planning authority)—

(a) omit paragraph 5(3), (4) and (5); and

(b) after paragraph 16 insert—

“**17.** Historic Environment Scotland, in the case of—

(a) development of land which is situated within 800 metres from any Royal Palace or Park, and might affect the amenities of that Palace or Park;

(b) development which may affect—

(i) a World Heritage Site;

(ii) a historic garden or designed landscape;

(iii) the site of a scheduled monument or its setting; or

(iv) a category A listed building or its setting; or

(c) development (other than householder development) which may affect a historic battlefield.”.

(a) S.S.I. 2013/155 to which there are amendments which are not relevant to these Regulations.

(b) 1997 c.9. Section 1 is amended by paragraph 2 of Schedule 3 to the Historic Environment Scotland Act 2014 (asp 19).

(4) Paragraph (3)(b) does not apply in relation to an application for planning permission in respect of which notice is given to the Scottish Ministers under regulation 25(2)(a) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 before 1st October 2015.

FIONA HYSLOP

A member of the Scottish Government

St Andrew's House,
Edinburgh
2nd June 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Environmental Impact Assessment (Scotland) Regulations 1999, the Town and Country Planning (Development Planning) (Scotland) Regulations 2008, the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 following the establishment of Historic Environment Scotland by the Historic Environment Scotland Act 2014 (asp 19) (“the 2014 Act”). The changes, subject to transitional provisions, come into force on 1st October 2015. Regulations 2 and 4 are made in exercise of the powers in section 2(2) of the European Communities Act 1972.

Regulation 2 amends the Environmental Impact Assessment (Scotland) Regulations 1999 to include Historic Environment Scotland as a consultation body for the purposes of Part 4 of those Regulations.

Regulation 3 amends the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 to add Historic Environment Scotland to the list of bodies specified as a key agency for the purposes of various provisions of the Town and Country Planning (Scotland) Act 1997.

Regulation 4 amends the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 to include Historic Environment Scotland as a consultation body for the purposes of those Regulations.

Regulation 5 amends the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 to updated the definition of “category A listed building” to take account of changes made by the 2014 Act and to provide for consultation with Historic Environment Scotland, rather than the Scottish Ministers, in connection with planning applications in circumstance where development may affect aspects of the historic environment.

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