

2015 No. 230

ANCIENT MONUMENTS

**The Scheduled Monuments (Notification and Publication)
(Scotland) Regulations 2015**

<i>Made</i> - - - -	<i>2nd June 2015</i>
<i>Laid before the Scottish Parliament</i>	<i>4th June 2015</i>
<i>Coming into force</i> - -	<i>1st October 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1(6) and 1B of the Ancient Monuments and Archaeological Areas Act 1979(a) and all other powers enabling them to do so.

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Scheduled Monuments (Notification and Publication) (Scotland) Regulations 2015 and come into force on 1st October 2015.

(2) These Regulations extend to Scotland only.

(3) In these Regulations “the Act” means the Ancient Monuments and Archaeological Areas Act 1979.

Application

2.—(1) These Regulations apply to any—

- (a) inclusion of a monument in the Schedule;
- (b) amendment of an entry in the Schedule relating to a monument; or
- (c) exclusion of a monument from the Schedule,

made on after 1st October 2015.

Notification of inclusion in, amendment to or exclusion from the Schedule

3.—(1) The notice for the purpose of section 1(6) of the Act of the—

- (a) inclusion of a monument in the Schedule;
- (b) amendment of an entry in the Schedule relating to a monument; or
- (c) exclusion of a monument from the Schedule,

is to be given in accordance with this regulation and regulation 4.

(a) 1979 c.46. Section 1(6) was substituted by, and section 1B was inserted by the Historic Environment Scotland Act 2014 (asp 19), schedule 2, paragraphs 2(e) and 3. The functions of the Secretary of State transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46).

(2) The persons prescribed for the purposes of section 1(6) of the Act are—

- (a) the owner of the monument;
- (b) the occupier of the monument; and
- (c) the local authority in whose area the monument is situated;

(3) Notice under section 1(6) of the Act is to be given as soon as is reasonably practicable after the inclusion or exclusion of a monument from the Schedule or the amendment of an entry in the Schedule relating to a monument, as the case may be.

(4) The notice must—

- (a) describe the location of the monument including where applicable, a postal address; and
- (b) 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.

Service of notices

4.—(1) Notice under section 1(6) of the Act may be served on or given to a person—

- (a) by being delivered personally to the person;
- (b) by leaving it at the proper address of the person;
- (c) by being sent to the proper address of the person—
 - (i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000(a)); or
 - (ii) by a postal service which provides for the delivery of the document to be recorded; or
- (d) in a case where an address for service using an electronic communication has been given by the person, (and that person has not withdrawn consent to the use of an electronic communication) by sending it using an electronic communication, in accordance with the condition set out in paragraph (5), to that person at that address.

(2) For the purposes of paragraph (1), the proper address of a person is—

- (a) in the case of a body corporate, the address of the registered or principal office of the body;
- (b) in the case of a partnership, the address of the principal office of the partnership;
- (c) in any other case, the last known address of the person, or in the case where an address for service has been given by that person, that address.

(3) Where, after reasonable inquiry, it is not practicable to ascertain either or both—

- (a) the name;
- (b) the address,

of a person to be notified, the notice is taken to be served if the requirements of paragraph (4) are met.

(4) The requirements are that the notice is addressed to that person either by name or by the description of “the owner” or “the occupier” of the monument; and—

- (a) it is delivered or sent in the manner specified in paragraph (1)(a), (b) or (c); or
- (b) it is plainly identifiable as a document of importance and is displayed on the land in, on or under which the monument is situated or on the monument (except where doing so might damage it).

(a) 2000 c.26.

- (5) The condition is that the notice must be—
- (a) capable of being accessed by the person mentioned in paragraph (1)(d);
 - (b) legible in all material respects; and
 - (c) in a form sufficiently permanent to be used for subsequent reference.

(6) In this regulation—

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(a);

“legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served or given by means of a notice in printed form; and

“sent” includes served, submitted or given and cognate expressions are to be construed accordingly.

Publication of the Schedule

5.—(1) The Schedule is to be published and made available for public inspection in accordance with this regulation.

(2) The Schedule is to be published on the internet.

(3) The Schedule is to be available for public inspection at the principal office of Historic Environment Scotland.

St Andrew’s House,
Edinburgh
2nd June 2015

FIONA HYSLOP
A member of the Scottish Government

(a) 2000 c.7. Section 15(1) was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of the notification and publication requirements introduced by the Historic Environment Scotland Act 2014, where a scheduled monument is either included in or excluded from the Schedule of monuments in terms of section 1 of the Ancient Monuments and Archaeological Areas Act 1979 or where an entry relating to a monument in that Schedule is amended.

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