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STATUTORY INSTRUMENTS

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**1987 No. 1529 (S.112)**

**TOWN AND COUNTRY PLANNING, SCOTLAND**

**The Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987**

<i>Made</i>	- - - -	<i>28th August 1987</i>
<i>Laid before Parliament</i>		<i>10th September 1987</i>
<i>Coming into force</i>	- -	<i>1st October 1987</i>

The Secretary of State, in exercise of the powers conferred on him by sections 52(5), 54D, 160(2), 161(1), 162(3), 179(1), 257, 262A(8) and (9), 273(1) and (3), and 275(1) of, and paragraphs 1(1A), 1(1A) as applied by section 54D, 2(1), 7(1), 8 and 11(2) of Schedule 10 to, the Town and Country Planning (Scotland) Act 1972((1)) and section 1(5)(b) and (c), as read with section 6(4), of the Town and Country Planning Act 1984((2)), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987 and shall come into force on 1st October 1987.

**Interpretation**

2.—(1) Any reference in these Regulations to a numbered regulation or to a numbered Schedule is, unless otherwise expressly provided or the context otherwise requires, a reference to the regulation or Schedule bearing that number in these Regulations and a reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Town and Country Planning (Scotland) Act 1972;

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- (1) 1972 c. 52; section 54D was inserted by the Housing and Planning Act 1986 (c. 63), Schedule 9, paragraph 17; section 257 was substituted by the Town and Country Amenities Act 1974 (c. 32), section 7(2); section 262A was inserted by the Town and Country Amenities Act 1974 (c. 32), section 2(1); section 262A(8) was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 2 paragraph 38(a) and (b); paragraph (1A) of Schedule 10 was inserted by the Housing and Planning Act 1986 (c. 63), Schedule 9, paragraph 22; sections 52(5), 160(2), 161(1), 162(3) and 179(1) and paragraphs 1, 2, 7(1) and 8 of Schedule 10 were amended by the Local Government (Scotland) Act 1973 (c. 65), section 172(2); section 275(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.
- (2) 1984 c. 10.

- “the appropriate authority” has the meaning assigned to it by section 253(7) of the Act;
- “building in a conservation area” means an unlisted building within a conservation area to which listed building control is applied by sections 262A(8) and (9) of the Act;
- “conservation area consent” means consent required by section 262A(2) of the Act;
- “Crown land” and “Crown interest” have the meanings assigned to them by section 253(7) of the Act;
- “listed building” has the meaning assigned to it by section 52(7) of the Act;
- “listed building consent” means the consent required by sections 53(2) and 53(2A)((3)) of the Act in respect of works for the demolition, extension or alteration of a listed building.

### **Applications for listed building consent and conservation area consent**

3.—(1) An application to a planning authority for listed building consent or for conservation area consent shall be made on a form issued by the planning authority and obtainable from that authority and shall contain—

- (a) sufficient particulars to identify the building to which it relates, including a plan,
- (b) such other plans and drawings as are necessary to describe fully the works which are the subject of the application, and
- (c) such information relating to those works as the planning authority may reasonably require,

and shall be lodged with the planning authority together with such documents or certificates as may be required in accordance with regulations 6 and 7 and two further copies of the form, plans and drawings.

(2) The planning authority may by a direction in writing addressed to the applicant require him to provide such further information, in addition to that given in the application, as may be requisite to enable them to determine the application, or to produce to them such evidence as they may reasonably call for to verify any particulars of information given to them.

(3) Where an application under paragraph (1) above has been received by the planning authority, the period within which the planning authority shall give notice to an applicant of their decision or of the reference of an application to the Secretary of State shall be two months from the date of receipt of the application by the planning authority and, in any case where the planning authority have asked for additional information or evidence, two months from the latest date of receipt thereof or such extended period as may at any time (except where the applicant has already given notice of appeal to the Secretary of State) be agreed upon in writing between the applicant and the planning authority.

(4) Every notice by a planning authority of their decision or of reference of an application to the Secretary of State shall be in writing and, where the planning authority decide to grant listed building consent or conservation area consent subject to conditions or to refuse it, they shall state their reasons in writing and send with the decision a notification in the terms (or substantially in the terms) set out in Part I of Schedule 1.

### **Applications to vary or discharge conditions attached to listed building consent and conservation area consent**

4.—(1) An application to a planning authority by a person interested in a building for the variation or discharge of conditions attached to a listed building consent or conservation area consent granted in respect of that building, shall be made on a form issued by the planning authority and obtainable from that authority, and shall

- (a) give particulars of that person’s interest in the building,

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(3) Section 53(2A) was inserted by the Housing and Planning Act 1986 (c. 63), Schedule 9, paragraph 14(2).

- (b) indicate what variation or discharge of conditions is applied for,
- (c) contain sufficient particulars to identify the building to which it relates, including a plan,
- (d) contain such other particulars as may be required by the planning authority, and
- (e) be lodged with the planning authority together with such certificates or documents as may be required in accordance with regulations 6 or 7 and two further copies of the form, plans and drawings.

(2) Paragraphs (2) to (4) of regulation 3 shall have effect in relation to an application under this regulation as they have effect in relation to an application under regulation 3(1), except that for the reference in regulation 3(4) to a notification in the terms set out in Part I of Schedule 1, there shall be substituted a reference to a notification in the terms set out in Part II of that Schedule.

### **Advertisement of applications**

5.—(1) Where an application for listed building consent, for conservation area consent or to vary or discharge conditions attached to a listed building consent or a conservation area consent is made to a planning authority in respect of any building, the planning authority shall—

- (a) publish in the Edinburgh Gazette and in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application, naming a place within that locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice and stating that representations may be made in writing to the planning authority within that period; and
- (b) for not less than 7 days display on or near the said building a notice containing the same particulars as are required to be contained in the notice to be published in accordance with sub-paragraph (a) of this paragraph.

(2) No application for listed building consent, for conservation area consent, or to vary or discharge conditions attached to a listed building consent or a conservation area consent shall be determined by the planning authority before the following periods have elapsed, namely—

- (a) the period of 21 days referred to in sub-paragraph (a) of paragraph (1) of this regulation, and where the date of publication of the notice in the Edinburgh Gazette and the date of publication of the notice in a local newspaper are not the same the above mentioned period of 21 days will be taken to commence on whichever is the later of the two dates of publication; and
- (b) the period of 21 days beginning with the date on which the notice required by sub-paragraph (b) of paragraph (1) of this regulation was first displayed;

and in determining the application the planning authority shall take into account any representations relating to the application which are received by them before these periods have elapsed.

### **Certificates to accompany applications and appeals**

6.—(1) A planning authority shall not entertain any application (which in this regulation means an application for listed building consent, for conservation area consent, or to vary or discharge conditions attached to a listed building consent or a conservation area consent) unless it is accompanied either by one or both of the documents described in regulation 7 or by one or other of the following certificates signed by or on behalf of the applicant, that is to say—

- (a) a certificate stating that, in respect of the building or any part of the building to which the application relates, at the beginning of the period of 21 days ending with the date of the application no person other than the applicant was the owner;

- (b) a certificate stating that the applicant has given the requisite notice of the application to all persons (other than the applicant) who, at the beginning of the period of 21 days ending with the date of the application, were owners of the building to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date on which each notice was served;
- (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding sub-paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in the last preceding sub-paragraph as are specified in the certificate (setting out their names, the addresses at which notice of the application was given to them respectively, and the date on which each notice was served), that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so;
- (d) a certificate stating that the applicant is unable to issue a certificate in accordance with sub-paragraph (a) above, that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in sub-paragraph (b) of this paragraph and that he has been unable to do so.

(2) Any such certificate as is mentioned in sub-paragraph (c) or sub-paragraph (d) of paragraph (1) shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (being a date not earlier than the beginning of the period mentioned in sub-paragraph (b) of paragraph (1)) been published in a local newspaper circulating in the locality in which the building is situated.

(3) Where an application is accompanied by such a certificate as is mentioned in sub-paragraphs (b), (c) or (d) of paragraph (1)–

- (a) the planning authority shall not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the dates on which notices were served as mentioned in the certificate, or the date of publication of a notice as therein mentioned, whichever is the later;
- (b) the planning authority–
  - (i) in determining the application, shall take into account any representations relating thereto which are made to them, before the end of the period specified in sub-paragraph (a) of this paragraph, by any person who satisfies them that he is an owner of the building or any part thereof to which the application relates, and
  - (ii) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with the preceding head.

(4) For the purposes of this regulation, “owner” in relation to any building means any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking (that is to say the proprietor of the dominium utile or, in relation to a building situated on land not held on feudal tenure, the proprietor thereof), and any person entitled to possession of the building as lessee under a lease the unexpired period of which is not less than seven years.

(5) The provisions of this regulation shall apply, with any necessary modifications, in relation to an application which is referred to the Secretary of State under paragraph 4 of Schedule 10 to the Act or in relation to an appeal to the Secretary of State under paragraph 7 or paragraph 8 of that Schedule or in relation to those provisions as applied to buildings in conservation areas by section 262A(8) of the Act, as they apply in relation to an application which falls to be determined by the planning authority.

(6) Certificates issued for the purposes of this regulation shall be in the forms set out in Part I of Schedule 2 or in forms substantially to the like effect.

(7) The requisite notices for the purposes of the provisions of this regulation in relation to applications shall be in the forms set out in Part II of Schedule 2 or in forms substantially to the like effect.

(8) The requisite notices for the purposes of the provisions of this regulation in relation to appeals shall be in the forms set out in Part III of Schedule 2 or in forms substantially to the like effect.

### **Documents to accompany applications for listed building consent and conservation area consent in respect of Crown land and notification of disposal to planning authority**

7.—(1) Where an application is made to a planning authority in respect of Crown land in accordance with section 1(2) of the Town and Country Planning Act 1984 by the appropriate authority or by a person authorised by that authority in writing for listed building consent or conservation area consent, and where there is no interest in the land which is for the time being held otherwise than by or on behalf of the Crown, the planning authority shall not entertain such application unless it is accompanied by the following documents namely—

- (a) a statement that there is for the time being no private interest in the land; and
- (b) where the application is made by a person authorised by the appropriate authority, a copy of the relevant authorisation.

(2) The appropriate authority shall, as soon as may be after disposing of an interest in any Crown land in respect of which an application has been made under section 1(2) of the said 1984 Act, give notice in writing to the planning authority of such disposal.

### **Appeals**

8.—(1) Any person who desires to appeal—

- (a) against a decision of a planning authority—
  - (i) refusing listed building consent or conservation area consent or granting such consent subject to conditions, or
  - (ii) refusing to vary or discharge the conditions attached to a listed building consent or conservation area consent or adding new conditions consequential upon any such variation or discharge, or
  - (iii) refusing to approve details of the works which were reserved for subsequent approval by a condition of a listed building consent,
- (b) on the failure by a planning authority to give notice of their decision or of the reference of the application to the Secretary of State,

shall give notice of appeal to the Secretary of State (on a form obtained from the Secretary of State) within six months of notice of the decision or of the expiry of the appropriate period allowed under regulation 3(3) as the case may be, or such longer period as the Secretary of State may at any time allow.

(2) Any such person shall also furnish to the Secretary of State a copy of the following documents:—

- (a) the application made to the planning authority;
- (b) all relevant plans, drawings, particulars or documents submitted with the application, including a copy of the certificate given in accordance with regulation 6 or of the documents lodged in accordance with regulation 7, as the case may be;
- (c) the notice of the decision, if any; and
- (d) all other relevant correspondence with the planning authority.

### **Claims for compensation and listed building purchase notices**

9.—(1) This regulation applies to—

- (a) a claim for compensation made to a planning authority under—
  - (i) section 160 of the Act (compensation for refusal of consent to the alteration or extension of a listed building);
  - (ii) section 161 of the Act (compensation where listed building consent is revoked or modified);
  - (iii) section 161 of the Act as applied to buildings in conservation areas by section 262A(8) of the Act;
  - (iv) section 162 of the Act (compensation for loss or damage caused by the service of a building preservation notice); and
- (b) a listed building purchase notice served on a planning authority under section 179 of the Act; and
- (c) a listed building purchase notice served on a planning authority under section 179 of the Act, as applied to buildings in conservation areas by section 262A(8) of the Act.

(2) Any such claim or notice as is mentioned in paragraph (1) of this regulation shall be in writing and shall be served on the planning authority by sending it, addressed to them, by recorded delivery post, or by delivering it to their offices.

(3) The time within which any such claim or notice as is mentioned in paragraph (1) of this regulation shall be served shall be—

- (a) in the case of a claim for compensation, 6 months; and
- (b) in the case of a listed building purchase notice, 12 months from the date of the decision in respect of which the claim or notice is made or given, or such longer period as the Secretary of State may allow in any particular case.

### **Advertisement of unopposed revocation or modification order**

10. Where, by virtue of the provisions of paragraph 11(2) of Schedule 10 to the Act as also applied to buildings in conservation areas by section 262A(8) of the Act (advertisement of unopposed order revoking or modifying listed building consent or conservation area consent), the making of an order under paragraph 9 of Schedule 10 to the Act in respect of works to or demolition of a building is required to be advertised, the planning authority shall publish in the Edinburgh Gazette and in a local newspaper circulating in the area in which the building is situated an advertisement stating that the order has been made and specifying the periods required by paragraph 11(2) of Schedule 10 to the Act as also applied as aforesaid to be specified.

### **Applications for listed building consent and conservation area consent by planning authorities**

11.—(1) In relation to applications by planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings, or for conservation area consent for the demolition of unlisted buildings in conservation areas, the provisions of the Act referred to in Part IV of Schedule 19 to the Act shall have effect subject to the exceptions and modifications prescribed by this regulation.

(2) Where a planning authority require listed building consent for the demolition, alteration or extension of any listed building in their area, or conservation area consent for the demolition of unlisted buildings in conservation areas in their area, the authority shall make application to the Secretary of State for that consent.

- (3) Any such application shall—
- (a) be made in the form of an application to the planning authority;
  - (b) be published and displayed by the planning authority in the same manner as an application made to them for listed building consent and in accordance with the provisions of regulation 5(1) of these Regulations; and
  - (c) be deemed to have been referred to the Secretary of State under paragraph 4 of Schedule 10 to the Act;

and the provisions of paragraph 4 of Schedule 10 to the Act shall apply to the determination of the application by the Secretary of State.

(4) In relation to a listed building, or an unlisted building in a conservation area, belonging to a local authority and in respect of which they are the planning authority, the Secretary of State may serve any notice authorised to be served by a planning authority in relation to a listed building or an unlisted building in a conservation area.

#### **Form of notice that a building has become, or ceased to be, listed**

12. The forms set out in Schedule 3 hereto (or forms substantially to the like effect) are the prescribed forms of notice for the purposes of section 52(5) of the Act (service of notice that a building has become, or has ceased to be, listed).

#### **Application of listed building control to buildings in conservation areas**

13. Without prejudice to the general application of provisions in respect of buildings in conservation areas contained in section 262A(8) of the Act, the provisions of the Act relating to listed building control which are set out in column (1) of Schedule 4 to these Regulations shall have effect in their application to buildings in conservation areas subject to the exceptions and modifications set out opposite such provisions in column (2) of the said Schedule.

#### **Revocation and savings**

- 14.—(1) There are hereby revoked:—
- (a) the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1975((4));
  - (b) the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Amendment Regulations 1977((5));
  - (c) the provisions contained in the Town and Country Planning (Crown Land Applications) (Scotland) Regulations 1984((6)) insofar as they relate to regulation 6 of the said 1975 Regulations and to applications for listed building consent and for conservation area consent.

(2) Anything done under or by virtue of any regulation revoked by these Regulations shall be deemed to have been done under or by virtue of the corresponding provision of these Regulations and anything begun under any such regulation may be continued under these Regulations as if begun under these Regulations.

(3) So much of any document, drawing or plan as refers expressly or by implication to any regulation revoked by these Regulations shall, if and so far as the context permits, be construed as referring to the corresponding provision of these Regulations.

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(4) S.I. 1975/2069.

(5) S.I. 1977/255.

(6) S.I. 1984/996.

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New St. Andrew's House,  
Edinburgh  
28th August 1987

*James Douglas-Hamilton*  
Parliamentary Under Secretary of State, Scottish  
Office



## SCHEDULE 1

Regulations 3 and 4

### PART I

#### NOTIFICATION TO BE SENT TO APPLICANT ON REFUSAL OF LISTED BUILDING CONSENT OR CONSERVATION AREA CONSENT OR GRANT OF SUCH CONSENT SUBJECT TO CONDITIONS

1. If the applicant is aggrieved by the decision of the planning authority to refuse listed building consent or conservation area consent for the proposed works, or to grant such consent subject to conditions, he may, by notice served within 6 months of the receipt of this notice, appeal to the Secretary of State for Scotland (on a form obtainable from him on application to the Secretary, Scottish Development Department, New St Andrew's House, St James Centre, Edinburgh EH1 3SZ) in accordance with paragraph 7 of Schedule 10 to the Town and Country Planning (Scotland) Act 1972, as also applied to buildings in conservation areas by section 262A(8) of that Act (as substituted by section 2(1) of the Town and Country Amenities Act 1974 and amended by (1) Schedule 2, paragraph 38(a) of the Local Government and Planning (Scotland) Act 1982, and (2) Schedule 9, paragraph 21 of the Housing and Planning Act 1986). The Secretary of State has power to allow a longer period for the giving of a notice of appeal, but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.

2. If listed building consent or conservation area consent is refused, or granted subject to conditions, whether by the planning authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any works which have been or would be permitted, he may serve on the planning authority in whose district the land is situated a listed building purchase notice requiring that authority to purchase his interest in the land in accordance with the provisions of section 179 of the Town and Country Planning (Scotland) Act 1972, as also applied to buildings in conservation areas by section 262A(8) of that Act.

3. In certain circumstances a claim may be made against the planning authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of an application to him. The circumstances in which such compensation is payable are set out in section 160 of the Town and Country Planning (Scotland) Act 1972.

### PART II

#### NOTIFICATION TO BE SENT TO APPLICANT ON REFUSAL TO VARY OR DISCHARGE CONDITIONS ATTACHED TO A LISTED BUILDING CONSENT OR A CONSERVATION AREA CONSENT OR ON THE ADDITION OF NEW CONDITIONS CONSEQUENTIAL UPON VARIATION OR DISCHARGE

If the applicant is aggrieved by the decision of the planning authority to refuse to vary or discharge the conditions attached to a listed building consent or conservation area consent or to add new conditions consequential upon any such variation or discharge, he may by notice served within 6 months of the receipt of this notice appeal to the Secretary of State for Scotland (on a form obtainable from him on application to the Secretary, Scottish Development Department, New St Andrew's House, St James Centre, Edinburgh EH1 3SZ) in accordance with paragraph 7 of Schedule 10 to the Town and Country Planning (Scotland) Act 1972, as also applied to buildings in conservation areas by section 262A(8) of that Act (as substituted by section 2(1) of the Town and Country Amenities Act 1974, and amended by (1) Schedule 2, paragraph 38(a) of the Local Government and Planning (Scotland) Act 1982, and

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- (2) Schedule 9, paragraph 21 of the Housing and Planning Act 1986). The Secretary of State has power to allow a longer period for the giving of a notice of appeal, but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.

SCHEDULE 2

Regulation 6

PART I

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

Certificate under paragraph 2 of Schedule 10.

Certificate A\* I hereby certify that:-

No person other than \*myself/the applicant/the appellant was an owner(a) of any part of the building to which the \*application/appeal relates at the beginning of the period of 21 days ending with the date of the accompanying \*application/appeal;

or

Certificate B\* I hereby certify that:-

\*I have/the applicant has/the appellant has given the requisite notice to all the persons other than \*myself/the applicant/the appellant who, at the beginning of the period of 21 days ending with the date of the accompanying \*application/appeal, were owners (a) of the building or any part thereof to which the \*application/appeal relates, viz:-

Name of Owner	Address	Date of Service of Notice.
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or

Certificate C\* I hereby certify that:-

1. \*I am/the applicant is/the appellant is unable to issue a certificate in accordance with either sub-paragraph (a) or sub-paragraph (b) of regulation 6(1) of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987 in respect of the accompanying \*application/appeal dated .....

2. \*I have/the applicant has/the appellant has given the requisite notice to the following persons other than \*myself/the applicant who, at the beginning of the period of 21 days ending with the date of the \*application/appeal, were owners (a) of the building or any part thereof, to which the \*application/appeal relates, viz:-

Name of Owner	Address	Date of Service of Notice.
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3. \*I have/the applicant has/the appellant has taken the steps listed below, being steps reasonably open to \*me/him to ascertain the names and addresses of the [other] owners(a) of the building or any part thereof and \*have/has been unable to do so:

(b) .....

4. Notice of the \*application/appeal as set out below has been published in the(c) ..... on (d) .....

Copy of notice as published.

or

Certificate D\* I hereby certify that:-

1. \*I am/the applicant is/the appellant is unable to issue a certificate in accordance with sub-paragraph (a) of regulation 6(1) of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987 in respect of the accompanying \*application/appeal dated .....

\*I have/He has taken the steps listed below, being steps reasonably open to \*me/him, to ascertain the names and addresses of all the persons other than \*myself/himself, who at the beginning of the period of 21 days ending with the date of the \*application/appeal were owners of the building or any part thereof to which the \*application/appeal relates and \*have/has been unable to do so:

(b) .....

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2. Notice of the *\*application/appeal* as set out below has been published in the (e) ..... on (d) .....

Copy of notice as published.

Signed

\*[on behalf of ]

Date

\*Delete where inappropriate

*Notes*

(a) "Owner" means the proprietor of the *dominium utile* or, in relation to a building situated on land not held on feudal tenure, the proprietor thereof, or a lessee under a lease the unexpired term of which was not less than 7 years.

(b) Insert description of steps taken.

(c) Insert name of the local newspaper (circulating in the locality in which the land is situated) in which the notice has been published.

(d) Insert date of publication (the notice must not be published on a date earlier than 21 days before and ending with the date of the application or appeal).

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**PART II**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972**

*Notice of application for \*[listed building consent] [variation or discharge of conditions of listed building consent] [conservation area consent]*

**[Notice for service on individuals]**

Proposal to carry out works in respect of \*[demolishing] [altering] [extending] [varying or discharging conditions] .....(a).

**TAKE NOTICE** that application is being made to the .....(b) Council by .....(c) for \*[listed building consent] [conservation area consent] [variation or discharge of conditions] to .....(d).

If you wish to make representations about the application, you should make them in writing to the Council at .....(e) not later than .....(f).

**Signed**

**\*[on behalf of** \_\_\_\_\_ ]

**Date**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972**

*Notice of application for \*[listed building consent] [variation or discharge of conditions of listed building consent] [conservation area consent]*

**[Notice for publication in local newspaper in accordance with regulation 5(1) of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1987]**

Proposal to carry out works in respect of \*[demolishing] [altering] [extending] [varying or discharging conditions] .....(a).

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Notice is hereby given that application is being made to the .....(b) Council by .....(c) for \*[listed building consent] [conservation area consent] [variation or discharge of conditions] .....(d).

Representations to the council about the application may be made to them in writing to .....(e) not later than .....(f) by any owner of the building(s) or any part thereof(g).

Signed  
\*[on behalf of ]  
Date

*\*Delete where inappropriate*

*Notes*

- (a) Insert name, address, or location, of building with sufficient precision to ensure identification of it.
- (b) Insert name of planning authority.
- (c) Insert name of applicant.
- (d) Insert description of proposed works or proposed variation or discharge and name, address, or location of building affected.
- (e) Insert address of planning authority.
- (f) Insert date not less than 21 days from and including the date on which the notice is served or published.
- (g) "Owner" means the proprietor of the *dominium utile* or, in relation to a building situated on land not held on feudal tenure, the proprietor thereof, or a lessee under a lease the unexpired term of which was not less than 7 years.

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### PART III

#### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

*Notice of appeal against refusal, etc. of [listed building consent] [variation or discharge of conditions of listed building consent] [conservation area consent]*

[Notice for service on individuals]

Proposal to carry out works in respect of \*[demolishing] [altering] [extending] [varying or discharging conditions] .....(a).

TAKE NOTICE that an appeal is being made to the Secretary of State by .....(b).

\*(i) against the decision of the .....(c) Council

\*(ii) on the failure of the .....(c) Council to give a decision on an application to .....(d).

If you wish to make representations to the Secretary of State about the appeal you should make them in writing not later than .....(e) to the Secretary, Scottish Development Department, New St. Andrew's House, St. James Centre, Edinburgh, EH1 3SZ.

Signed

\*[on behalf of ]

Date

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TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

Notice of appeal against refusal, etc. of \*[listed building consent] [variation or discharge of conditions of listed building consent] [conservation area consent]

[Notice for publication in local newspaper]

Proposal to carry out works in respect of \*[demolishing] [altering] [extending] [varying or discharging conditions] .....(a).

Notice is hereby given that an appeal is being made to the Secretary of State by .....(b).

\*(i) against the decision of the .....(c) Council

\*(ii) on the failure of the .....(c) Council to give a decision on an application to .....(d).

Representations to the Secretary of State about the appeal may be made in writing to the Secretary, Scottish Development Department, New St. Andrew's House, St. James Centre, Edinburgh, EH1 3SZ not later than .....(e) by any owner(f) of the buildings or any part thereof.

Signed

\*[on behalf of ]

Date

Notes

(a) Insert name, address or location, of building with sufficient precision to ensure identification of it.

(b) Insert name of appellant.

(c) Insert name of planning authority.

(d) Insert description of proposed works or proposed variation or discharge and name, address or location of building affected.

(e) Insert date not less than 21 days from and including the date on which the notice is served or published.

(f) "Owner" means the proprietor of the dominium utile or, in relation to a building situated on land not held on feudal tenure, the proprietor thereof, or a lessee under a lease the unexpired term of which was not less than 7 years.

\*Delete where inappropriate



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SCHEDULE 3

Regulation 12

Notice that a building has become listed

To:

NOTICE IS HEREBY GIVEN that the building known as ..... situated in the ..... has been included in the list of buildings of special architectural or historic interest in that area compiled by the Secretary of State under section 52 of the Town and Country Planning (Scotland) Act 1972 on ..... 19.....

Dated..... 19.....

..... (Signature of Authorised Officer)

*Explanatory Note*

*Listing of Buildings of Special Architectural or Historic Interest*

It is understood that you are the owner, lessee, or occupier of the building named in the accompanying notice. This notice is to let you know that the building has been included in one of the lists of buildings of special architectural or historic interest which it is the Secretary of State's duty to compile under section 52 of the Town and Country Planning (Scotland) Act 1972.

This notice does not call for any action on your part unless you propose at any time to demolish the building or to do any works (either to the exterior or to the interior) which would affect its character. In that event you will need to seek "listed building consent", that is to say, the consent of the planning authority (the ..... Council) to the work you wish to do.

Certain buildings are exempt from this requirement, notably ecclesiastical buildings in use for the time being for ecclesiastical purposes, but it should also be noted that this exemption may be restricted or excluded by an order of the Secretary of State under section 56AA of the Town and Country Planning (Scotland) Act 1972.

It is an offence if you execute or cause to be executed any works for which listed building consent is necessary without such consent, but it is a defence to prove the following matters—

- (a) that the works were urgently necessary in the interests of safety or of health, or to preserve the building;
- (b) that it was not practicable to secure safety or health or the preservation of the building by works of repair or works for affording temporary support or shelter;
- (c) that the works carried out were limited to the minimum measures immediately necessary; and
- (d) that notice in writing justifying in detail the carrying out of the works was given to the planning authority as soon as reasonably practicable.

There is no right of appeal as such against the listing of a building but, if the planning authority should refuse consent for the carrying out of any proposed works, section 54(6) of the Town and Country Planning (Scotland) Act 1972 as read with paragraph 7 of Schedule 10 to that Act provides a right of appeal against the refusal to the Secretary of State. One of the statutory grounds of appeal is that the building is not of special architectural or historic interest. You are not precluded from writing at any time to the Secretary of State claiming that the building should cease to be listed on the ground that it is not in fact of special architectural or historic interest; and any such claim, with the evidence supporting it, will be carefully considered.

A fuller explanation of the consequences of the listing of a building is enclosed with this notice. If at any time you propose to take any action which may affect the character of your building, you would be well advised to refer to Part IV of, and Schedule 10 to, the Town and Country Planning (Scotland) Act 1972 and to the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987.

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To:

NOTICE IS HEREBY GIVEN that the building known as ..... situated in the ..... has, by an amendment made by the Secretary of State under section 52 of the Town and Country Planning (Scotland) Act 1972 on ..... 19 ....., been excluded from the list of buildings of special architectural or historic interest in that area compiled by the Secretary of State on ..... 19 .....

Dated..... 19.....

..... (Signature of Authorised Officer)

*Explanatory Note*

The building referred to in the above notice has been excluded from the list because\*

*\*Insert reason for exclusion*

SCHEDULE 4

Regulation 13

APPLICATION OF ENACTMENTS TO BUILDINGS IN CONSERVATION AREAS

Column (1) Provisions of the Act relating to listed building control	Column (2) Exceptions and modifications
Section 53	<ol style="list-style-type: none"> <li>1. In subsection (1) omit the words “or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest”.</li> <li>2. In subsection (2)–                             <ol style="list-style-type: none"> <li>(i) omit the words “or for its alteration or extension”;</li> <li>(ii) omit paragraph (b).</li> </ol> </li> <li>3. In subsection 2A omit the words “alteration or extension”.</li> <li>4. Omit subsection (3).</li> <li>5. For subsection (3A) substitute the following subsection–                             <p style="margin-left: 40px;">“3A. Consent under subsection (2) or (2A) of this section is referred to in this part of this Act as “conservation area consent”.”</p> </li> </ol>
Section 54(3) and (4)	<ol style="list-style-type: none"> <li>1. In subsection (3)–                             <ol style="list-style-type: none"> <li>(i) omit the words from the beginning to “its setting, and”;</li> </ol> </li> </ol>

Column (1) Provisions of the Act relating to listed building control	Column (2) Exceptions and modifications
Section 54C	<p>(ii) for the words “the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”, substitute the words “the desirability of preserving the character or appearance of the conservation area”.</p> <p>2. In subsection (4) the words “in respect of any building” shall be inserted before the words “subject to conditions”.</p>
Section 56AA	<p>In subsection (1) omit paragraph (b).</p> <p>In subsection (1) for the words “sections 54(1) and 56(2)” substitute “section 54(1)”.</p>
Section 92	<p>1. In subsection (1) for the words “the character of the building as one of special architectural or historic interest”, substitute the words “the character or appearance of the conservation area in which the building is situated”.</p> <p>2. In subsection (1A), in paragraph (b) in place of sub-paragraphs (i) and (ii) substitute the following– “the character or appearance of the conservation area in which the building is situated”.</p>
Section 93	<p>1. In subsection (1)–</p> <ul style="list-style-type: none"><li>(i) substitute the following paragraph for paragraph (a)–<ul style="list-style-type: none"><li>“(a) that retention of the building is not necessary in the interests of preserving the character or appearance of the conservation area in which it is situated;”;</li></ul></li><li>(ii) omit paragraph (h);</li><li>(iii) in paragraph (k) for the words “listed building control” substitute “conservation area control”.</li></ul> <p>2. In subsection (5) omit paragraph (c).</p>

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Column (1) Provisions of the Act relating to listed building control	Column (2) Exceptions and modifications
Section 257	Omit the words “alteration or extension”.
Schedule 10, Part I	In part I omit paragraphs 6 and 7(2) and (3)(b).
Schedule 19, Part IV	The exceptions and modifications referred to in regulation 13 and specified in the above column shall have effect in relation to the appropriate provisions in Part IV of Schedule 19.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and re-enact with amendments the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1975 to take account of the provisions of the Town and Country Planning Act 1984 and the Housing and Planning Act 1986.

The changes of substance are:—

- (i) provision of a definition of “conservation area consent” which follows the precedent set in respect of Crown land applications in the Town and Country Planning Act 1984 (regulation 2(2));
- (ii) removal of the requirement that listed building consent and conservation area consent applications be made on a form prescribed by the Secretary of State (regulation 3);
- (iii) provision of procedures for applications and appeals in respect of the power to vary or discharge conditions attached to a listed building consent or conservation area consent introduced in Schedule 9, paragraph 17 of the 1986 Act (regulations 4 and 8);
- (iv) incorporation in these Regulations of provisions in respect of Crown land applications formerly contained in the Town and Country Planning (Crown Land Applications) (Scotland) Regulations 1984 (regulations 7 and 14);
- (v) amendment of the notice of listing sent to owners to take into account amendments to the Town and Country Planning (Scotland) Act 1972 made by paragraphs 15 and 18 of Schedule 9 to the 1986 Act (Schedule 3); and
- (vi) amendment of the application of section 262A(8) of the Town and Country Planning (Scotland) Act 1972 to take account of amendments made in Schedule 9, paragraph 21 of the 1986 Act (Schedule 4).

The Regulations make procedural provision for applications for listed building consent, for consent to demolish certain buildings in conservation areas, for the variation or discharge of conditions attached to listed building consents, and for appeals in respect of these matters. The Regulations also prescribe the manner in which and the time within which claims are to be made for compensation arising from the application of statutory control to listed buildings and buildings in conservation areas, the serving of listed building purchase notices, the advertising of unopposed orders revoking

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or modifying listed building consent, or the execution of works under listed building enforcement procedure.