

To:
Planning Authorities per Heads of Planning
Historic Environment Scotland

Copied to:
Director of Heritage Management HS/HES
CoSLA
SGLP



Ur faidhle/Your ref :
Ar faidhle/Our ref :HE directions
31 August 2015

Dear Sir/Madam

SCOTLAND'S HISTORIC ENVIRONMENT

HERITAGE MANAGEMENT: DIRECTIONS AND GUIDANCE Introduction

This letter concerns the protection of what is most significant about Scotland's historic environment by designation and management through heritage-specific consents and the wider planning system, including environmental assessment.

As you will be aware, the way in which Scotland's historic environment is managed is changing following the Historic Environment Scotland Act 2014, the associated secondary legislation and the publication of *Our Place in Time*, Scotland's first historic environment strategy.

The Act created a new Non-Departmental Public Body, Historic Environment Scotland, which will shortly take over the functions currently delivered by Historic Scotland and the Royal Commission on the Ancient and Historic Monuments of Scotland. Historic Environment Scotland ("HES") will operate within the framework of *Our Place in Time* and will act as the lead delivery partner on many aspects, acting in collaboration with other organisations and individuals.

The changes come into effect on 1 October 2015, the day on which HES takes up its full statutory responsibilities. More detail on the changes, including the strategic context and the primary and secondary legislation, with links to key documents, can be found here:
<http://www.gov.scot/Topics/ArtsCultureSport/arts/Historic-environment>



This letter represents a significant further step: it is accompanied by information about Ministerial directions which relate to the detail of certain changes made by the Act, and also offers an update on new roles and on guidance on operational policies and procedures.

Ministerial Directions

New Directions

Accompanying this letter are two Ministerial Directions made respectively under paragraph 2C(2)(b) of Schedule 1 to the Ancient Monuments and Archaeological Areas Act 1979 and section 12(1A)(b) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

- The Scheduled Monument Consent (Notification of Applications) Direction 2015 – Annex A
- The Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 – Annex B

These Directions set the criteria for notifying applications to the Scottish Ministers so consideration can be given as to whether they should be referred to Ministers for determination – the process known as “call-in”. The first-named Direction applies to HES and the second-named applies to Planning Authorities.

Both directions are effective from 1 October 2015 until further notice.

Existing Directions and Circulars

There are a number of extant Directions and Planning Circulars relating to the historic environment which are now obsolete in whole or in part.

Planning Circular 6/1984, of which Annex D relates to Planning Enforcement and Enforcement of Listed Buildings Control, is now redundant and is hereby withdrawn with immediate effect.

Planning Circular 17/1987 was accompanied by two Directions, on Removal of Requirement to Notify Certain Classes of Application for Listed Building Consent and on Exemption from Demolition Control in Conservation Areas. The circular and its attachments, including the first of these Directions, are now redundant and are hereby revoked with immediate effect. However, the second of these Directions, that relating to Demolition Control, remains valid. It is intended to review this Direction at an early date to take account of changes in legislation and responsibilities since 1987, and a replacement Direction may then be issued.

A series of Directions, listed at Annex C, applying to individual planning authorities and dealing with Removal of Duty to Notify (known as RDN) in relation to Listed Building Consent no longer have validity, as the statutory procedures in relation to notification to Ministers have changed so as to render them redundant. These Directions are all withdrawn with effect from 1st October 2015 but continue to apply under transitional arrangement in respect of applications made before 1st October 2015.

Regulation of the historic environment – new roles and guidance

From 1 October 2015, HES will have the lead statutory responsibility for undertaking designation and related regulatory work in its own name. The role of the Scottish Ministers

will in future relate mainly to strategic oversight, including call-in and the operation of appeals.

HES will also join Scottish Natural Heritage and the Scottish Environment Protection Agency as a “key agency”, putting on a statutory basis its existing collaborative work to ensure that all aspects of Scotland’s natural and historic environment are protected effectively and managed as an asset for the good of all.

Through the Act and its associated secondary legislation, some new processes have been added, a significant number of existing processes have been adjusted to accommodate these new roles and a number of additional changes have been made to update and improve the efficiency of decision-making.

During public consultations on the Act and on the necessary regulations, users of the heritage management system (including planning authorities and representatives of property owners, developers and regular applicants for consent) identified a need for up to date guidance about the new and modified arrangements, expressed in clear and accessible language.

Historic Environment Circular 1, which can be accessed here <http://www.historic-scotland.gov.uk/historic-environment-circular-1.pdf> It has been prepared in readiness for HES taking on its new lead responsibilities. This guidance seeks to offer a clear statement of what is required under the law. Additionally, the Circular details the roles expected of individuals within the various processes and sets out information about how HES will perform its responsibilities. HES will update this guidance from time to time, as need arises.

As with all such guidance, the Circular should be read in conjunction with the legislation and other relevant guidance. The statutory provisions take precedence in any cases of doubt.

The Circular refers at various points at Scottish Historic Environment Policy 2011 (SHEP). This remains in place except where already explicitly replaced. A further communication will follow about updating the process for delivery of statements of national policy on the historic environment.

Contact points

Should you have any queries regarding this letter or the Directions, please contact us on HE_policy@scotland.gsi.gov.uk. If your query relates to the Circular, please contact hs.heritagemanagement@scotland.gsi.gov.uk.

Yours faithfully



NOEL FOJUT
Culture and Historic Environment Division