

Scheduled Monument Consent

Guidance Notes for Applications for variation or discharge of conditions attached to a scheduled monument consent



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APPLICATIONS FOR VARIATION OR DISCHARGE OF CONDITIONS ATTACHED TO A SCHEDULED MONUMENT CONSENT

Scheduled Monument Consent is often granted with conditions. Conditions are important and must be read and understood as they can limit and control the way in which the consent may be implemented. Conditions can reserve specified details of the works (whether or not set out in the applications for consent) for subsequent approval by Historic Environment Scotland. Works to a scheduled monument that are in breach of the conditions attached to the consent may be subject to enforcement action. An applicant should contact Historic Environment Scotland with details of how each condition has been satisfied, an applicant should email or send details to Historic Environment Scotland, either by post or to scheduledmonumentconsent@hes.scot.

If an applicant wishes to have a condition removed from a consent (discharged) the applicant has to apply for a discharge of conditions attached to a scheduled monument consent. Such an application is made on a form obtained from Historic Environment Scotland and should set out why they wish the condition to be discharged. In some instances an applicant may wish to submit a request to vary a condition, and again an application can be made of a form available from Historic Environment Scotland. Applications can be submitted electronically or by post.

Applications for variation or discharge of conditions attached to a scheduled monument consent must contain the following information:

- particulars of the applicant's interest in the monument;
- the name and address of the applicant and, where an agent is working on behalf of the applicant the name and address of that agent.
- any related plans and drawings;
- appropriate ownership certificates and notices (see below - PART B: Other Parties Notification and Part C - Certificate of ownership)

Applications which contain insufficient information to satisfy the information requirements will be returned to the applicant with a clear explanation of why the application has been returned and what further information is required. We strongly encourage the use of our pre-application advice and application checking service to ensure you include the correct information at the time of submission in order that the processing of your application is not delayed.

PUBLICATION OF APPLICATIONS FOR VARIATION OR DISCHARGE OF CONDITIONS ATTACHED TO A SCHEDULED MONUMENT CONSENT

Applications to vary or discharge conditions attached to a scheduled monument consent will be made publicly available on its on-line Historic Environment Scotland Decision Portal during the application process (normally within five working days of receiving an application that satisfies the information requirements). Historic Environment Scotland will publish the application form and supporting documentation.

Once an application has been determined, Historic Environment Scotland will publish the decision notice.

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH
Scottish Charity No. **SC045925**
VAT No. **GB 221 8680 15**

DATA PROTECTION ACT 1998

Any personal data that you may be asked to provide for the application for variation or discharge of conditions attached to a scheduled monument consent will be held and processed in accordance with the Data Protection Act 1998. The information provided by you and other relevant parties will be used for processing and determining your application for variation or discharge of attached to a scheduled monument consent, and to confirm and update Historic Environment Scotland's Owner-Occupier records.

Your application will be processed by employees of Historic Environment Scotland. Applications will be available for public inspection and will be published on the Historic Environment Scotland Decision Portal as required by Regulation 7 and 8 of The Scheduled Monument Consent Procedure (Scotland) Regulations 2015 <http://portal.historicenvironment.scot>

We will publish the application and relevant supplementary information including your name, address and personal information about yourself and others that you have submitted as part of the application. We will not publish personal/sensitive information that is irrelevant to the assessment of the application including your contact details (signatures, personal email addresses and telephone numbers).

You must advise Historic Environment Scotland if there are particular reasons why you think any document, or part of document, you have provided cannot be published.

DETERMINATION

Applications to vary or discharge conditions attached to a scheduled monument consent will normally be determined within 8 weeks of receipt of the application. (Complex applications may take longer; where this is likely to be the case Historic Environment Scotland will discuss and agree appropriate timescales with the applicant).

In the case of variation of conditions, Historic Environment Scotland can take the decision to: grant variation of conditions; grant variation of conditions with further conditions, part grant/part refuse variation of conditions; part grant/part refuse variation of conditions with further conditions; or refuse variation of conditions.

In the case of discharge of conditions, Historic Environment Scotland can take the decision to: grant discharge of conditions; grant discharge of conditions with further conditions; part grant/part refuse discharge of conditions; or refuse discharge of conditions.

RIGHT TO APPEAL

Under the Historic Environment Scotland Act 2014, applicants for variation or discharge of conditions attached to a scheduled monument consent have the right to appeal to Scottish Ministers against:

- refusing an application for variation or discharge of conditions (related to a scheduled
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monument consent application);

- granting an application for variation or discharge of conditions (related to a scheduled monument consent application) subject to conditions;
- refusing an application for subsequent approval required by a conditions to which a scheduled monument consent is subject; and
- failure to determine scheduled monument consent or variation thereof within a two month period.

Appeals must be made in writing on a form obtained from Scottish Ministers. Appeals may be submitted online; forms and guidance for doing so are available from DPEA at <http://www.gov.scot/Topics/Built-Environment/planning/Appeals/appealformsguidancenotes>.

The notice of appeal needs to be served within a period of three months beginning with the date of the decision notice or, in the case of an appeal against non-determination, beginning with the date of expiry of the period allowed for determining the application - two months after the validation date.

Where the applicant and Historic Environment Scotland agree in writing to an extension of this statutory period, such extended period counts as the period allowed for determination.

CONTACTS

For further help and information please call 0131 668 8716.

MAKING A SCHEDULED MONUMENT CONSENT APPLICATION

Your scheduled monument consent application comes in three parts:

Part A: Application details: All applicants must complete this form

Part B: Other parties notification: This form must be completed by any applicant who is not the sole owner of the monument to which the works relate. This notice must be served on all owners, occupiers and agricultural tenants of the monument. A copy of each notice served must be included when you submit your application.

Part C: Certificate of ownership: All applicants must complete this form.

The application form also contains a contact details sheet. The information on this sheet will not be published as part of the application but it is important that it is completed so we are able to contact you about your application. If it is not completed, we have problems contacting you and this may delay the determination of your application.

Please follow the instructions below when completing your application form.

PART A: APPLICATION DETAILS

1 Applicant name and address

Please enter your name, address and contact details. If you are an agent, enter the name and

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Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**

address of the person you are making the application on behalf of.

2 Applicant's interest in monument

Please indicate your legal interest, if any in the monument.

3 Monument to which the application applies

Please enter information sufficient to identify the monument. The monument index number and name can be obtained by calling Historic Environment Scotland on 0131 668 8716 or through the Pastmap website www.pastmap.org.uk. Alternatively, please enter a grid reference for the monument, or a description of the location of land to which the application affects.

4 Details of the original scheduled monument consent

Please included details of the scheduled monument consent that the conduitions are attached to. This should included application reference number, the date of issue and a description of the works that have been consent as shown on the decision notice for the consent.

5 Condition(s) to which this application relates:

Please state the condition(s) to which this application for variation or discharge of conditions relates.

6 Discharge of conditions

Provide a full description of the documents/details that are being submitted in relation to each condition you are seeking to discharge.

7 Variation of conditions

Please fully state how you wish the condition(s) to be varied and the reasons for the variation in relation to each condition.

8 List of plans, drawings and other documents accompanying application (continue on separate sheet if necessary)

Please list any supporting plans, drawings or documents which accompany your application, indicating whether you intend to submit them by post or email. You **must** include a plan or drawing sufficient to identify the area of land to which the works relate and other such other plans and drawings as are necessary to describe the works to which it relates.

9 Other Information relevant to the application

You should include details of any other information relevant to the application.

10 Declaration

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Please complete the declaration section of the form.

PART B: OTHER PARTIES NOTIFICATION

You do not need to have any legal interest in the land to which the application relates when you apply for scheduled monument consent or when you apply to vary or discharge a condition(s) attached to a scheduled monument consent. But, if you do not own the land to which the application relates, you are legally required to give notice of the making of the scheduled monument consent or application or application to vary or discharge conditions attached to a scheduled monument consent to the owner and to any agricultural tenant of the land.

If you were the sole owner of the monument to which the application relates at the beginning of the period of 21 days which ended on the date of the application, then you do not need to complete the 'Other Parties Notification'. **Please go to Part C.**

If you do not own any or all of the land to which the application relates, or if the land is agricultural land, then you must complete the 'Other parties notification'. This notice must be served on all owners of the monument to which the variation or discharge relates. A variation or discharge cannot be issued for at least 21 days after the notice has been served, unless you obtain written confirmation from the owner(s) that they do not wish to make representation. Notice can be served in person, or by post. If serving a notice by post, we recommend you use recorded delivery. A copy of any notice served must be submitted to Historic Environment Scotland with your application.

(a) Monument to which application relates

Please enter information sufficient to identify the monument. Where possible, this should include the Index number, name of the monument and a grid reference.
e.g. Index No 1111 Black Cairn, 200m NW of Mill Hill, NGR NH 6475 5432.

(b) Applicant name

Please enter the name of the applicant. If you are an agent, enter the name of the person you are making the application on behalf of.

(c) Description of variation or discharge of condition(s)

Insert a brief description of the proposed variation or discharge of condition, stating the condition(s) to which the application relates.

(d) Representation date

Insert date 21 days later than the date on which the notice will be served.

Signature

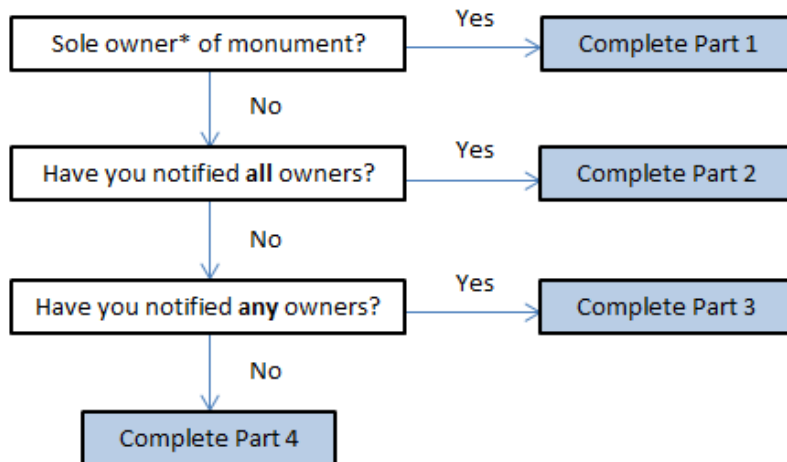
Please sign your name at the bottom of the notice. If you are an agent you should include details of the applicant.

PART C: CERTIFICATE OF OWNERSHIP

You are legally required to complete **one** part of the 'Certificate of Ownership' and submit it with your application.

* "Owner" of the monument is –

(a) any person who, in respect of any part of the land in, on or under which there is a scheduled monument, is under the [Lands Clauses Acts](#) enabled to sell and convey that land to promoters of an undertaking;



(b) any person who is entitled to possession of the land as a tenant under a lease, the unexpired period of which is not less than 10 years; (c) any tenant of a croft within the meaning of section 3 or any owner-occupier crofter of an owner-occupied croft under section 19B(5) of the [Crofters \(Scotland\) Act 1993](#) any part of which is comprised in that land to which an application relates; and (d) any agricultural tenant of land any part of which is comprised in that land to which an application relates.

Part 1 Applicant who is the sole owner

If you were the sole owner of the monument to which the application relates at the beginning of the period of 21 days which ended on the date of the application, then you should complete and return Part 1.

Part 2 Applicant who is not the sole owner

If you do not own the land to which the application relates, or you are a joint owner of the land, you are legally required to notify all (other) owner(s). The name and address of all owners served with an 'Other Parties Notice' (Part B) should be listed, together with the date on which you served the notice.

Part 3 Applicant who is not Sole Owner and is unable to identify one or more of several Joint Owners

If you are not the owner, or the only owner of the land to which the application relates, you are legally required to notify all (other) owner(s). If you have been unable to identify one or more owners, you should complete Part 3. The name and address of all owners served with an 'Other Parties Notice' (Part B) should be listed, together with the date on which you served the notice. You should also give details of the steps you have taken to try to identify the other

owners.

Part 4 **Applicant unable to identify any Owner**

If you have been unable to identify any owner(s) of the monument, you should complete Part 4, giving details of the steps you have taken to try to identify the owner(s).

You can email your application and supporting documents to:

scheduledmonumentconsent@hes.scot, or post them to: Heritage Management Business Support, Historic Environment Scotland, Longmore House, Salisbury Place, Edinburgh, EH9 1SH