

APPLICATION FOR SCHEDULED MONUMENT CONSENT

ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979

(To be completed by or on behalf of the applicant in **BLOCK CAPITALS** or typescript)
(Please **ENSURE** that you read the accompanying notes before completing this form)

NOTE THAT ANY PLANNING CONSENT NEEDED MUST BE SOUGHT SEPARATELY IN THE NORMAL WAY.

1. Applicant

Name

Address

Post code Tel No

Applicant's legal interest in the monument (please tick)

Owner Joint Owner Occupier Other None

If **OTHER**, please specify

2. Owner of monument (if not the applicant) Occupier (if not the applicant)

Name

Address

.....

Post code

Tel No

3. Monument to which application relates:

Name (if any) of monument

Local authority area

National Grid Reference (if known)

4. Description of proposed works (including their purpose):

.....
.....
.....
.....

5. List of plans and drawings accompanying application

.....
.....
.....
.....

6. Any other information relevant to application (including details of planning permissions obtained or to be sought)

.....
.....
.....
.....
.....

I/We hereby apply for scheduled monument consent for the works described in this application and shown on the accompanying plans and drawings

Signature Date

Print Full Name

on behalf of

*Where the application is being dealt with by an agent to whom correspondence should be sent, state the:-

Name of Agent

Address of Agent

.....

.....

Post code Tel No

Return to (with all relevant plans, photographs and drawings):-

Ancient Monuments Administration Branch, Historic Scotland, Longmore House,
Salisbury Place, Edinburgh EH9 1SH

CERTIFICATE
ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979
One of the following certificates must be completed by or on behalf of the Applicant

A. Certificate in accordance with paragraph 2(1)(a) of Schedule 1 to the Act - Sole Owner

It is hereby certified that no person other than the applicant was the owner(x) of the monument to which the accompanying application relates at the beginning of the period of twenty-one days which ended on the date of the application.

Signature of applicant Date

B. Certificate in accordance with paragraph 2(1)(b) of Schedule 1 to the Act - Applicant who is not Sole Owner.

It is hereby certified that the applicant has given the requisite notice of the accompanying application to all the persons other than the applicant who, at the beginning of the period of twenty-one days which ended on the date of the application, were owners(x) of the monument to which the application relates, namely(y)
.....
.....

Signature of applicant Date

C. Certificate in accordance with paragraph 2(1)(c) of Schedule 1 to the Act - Applicant who is not Sole Owner and is unable to identify one or more of several Joint Owners.

It is hereby certified -

- (1) that the applicant is unable to issue a certificate in accordance with either paragraph 2(1)(a) or (b) of Schedule 1 to the Ancient Monuments and Archaeological Areas Act 1979;
- (2) that the applicant has given the requisite notice of the accompanying application to the following persons who, at the beginning of the period of twenty-one days which ended on the date of the application, were owners(x) of the monument to which the application relates, namely(y)
.....
.....

- (3) that the applicant has taken such steps as are reasonably open to him to ascertain the names and addresses of the remainder of the persons who at the beginning of that period were owners(x) of that monument and has been unable to do so.

Signature of applicant Date

D. Certificate in accordance with paragraph 2(1)(d) of Schedule 1 to the Act - Applicant unable to identify any Owner.

It is hereby certified that the applicant is unable to issue a certificate in accordance with paragraph 2(1)(a) of Schedule 1 to the Ancient Monuments and Archaeological Areas Act 1979, but has taken such steps as are reasonably open to him to ascertain the names and addresses of the other persons who, at the beginning of the period of twenty-one days which ended on the date of the accompanying application, were owners(x) of the monument to which the application relates and has been unable to do so.

Signature of applicant Date

NOTES

(x) "Owner" or "owners" means a person or persons who, in respect of any part of the monument, is under the Lands Clauses Acts enabled to sell and convey the land to the promoters of an undertaking, any person who is entitled to possession of the land as tenant under a lease, the unexpired period of which is not less than ten years, an agricultural tenant as defined in the Agricultural Holdings (Scotland) Act 1949 or a crofter as defined in the Crofters (Scotland) Act 1955.

(y) Insert names and addresses.

**NOTICE TO OWNER OR JOINT OWNER
ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979**

To be completed and sent to all owners where item B or C(2) of the
Certificate of Ownership Interest is appropriate.

Notice of application for scheduled monument consent

Proposal to carry out work affecting (a)

TAKE NOTICE that an application is being made to the Scottish Ministers
by (b)

for scheduled monument consent to (c)

If you wish to make representations to the Scottish Ministers about the application you should make them in writing before the time when they consider their decision on the application. In order to ensure that representations are received in time, they should be lodged not later than (d) with:

Ancient Monuments Administration Branch
Historic Scotland
Longmore House, Salisbury Place,
Edinburgh EH9 1SH

Signed by applicant..... Date

(On behalf of)*

NOTES

(a) Insert name, address or location of the monument with sufficient precision to ensure its identification.

(b) Insert name of applicant.

(c) Insert brief description of proposed works.

(d) Insert date 28 days later than the date on which the notice is served.

*Delete where appropriate.

**ANY NOTICES ISSUED MUST BE COPIED TO HISTORIC SCOTLAND
BY THE APPLICANT**

ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979

Notes for Applicants for Scheduled Monument Consent (SMC)

(Please read these notes before you complete the application form)

1. What work requires scheduled monument consent?

Section 2 of the Ancient Monuments and Archaeological Areas Act 1979 provides that the Scottish Ministers' prior written consent (known as "scheduled monument consent") must be obtained for the following works:

- a. any works resulting in the demolition or destruction of or any damage to a scheduled monument;
- b. any works for the purpose of removing or repairing a scheduled monument or any part of it or making any alterations or additions thereto; and
- c. any flooding or tipping operations on land in, on or under which there is a scheduled monument.

2. Are there any exceptions to the above?

A general consent has been given in the Ancient Monuments (Class Consents) (Scotland) Order 1996 for the execution of any of the following works without the need to obtain the Scottish Ministers' specific consent;

Class I. Agricultural, Horticultural and Forestry Works

Agricultural, horticultural and forestry works, being works of the same kind as works previously executed lawfully in the same location and on the same spot within that location during the period of 6 years (or 10 years in the case of ploughed land) immediately preceding the date on which the works commence, but excluding -

(a) in the case of ploughed land, any works likely to disturb the soil of any part of that land below the depth at which ploughing of that part has previously been executed lawfully;

(b) in the case of land other than ploughed land, any works likely to disturb the soil below the depth of 300 millimetres;

(c) sub-soiling, drainage works, the planting or uprooting of trees, hedges or shrubs, the stripping of top soil, tipping operations, the felling or removal of trees or the commercial cutting and removal of turf;

(d) the demolition, removal, extension, alteration or disturbance of any building, structure or work or of the remains thereof;

(e) the erection of any building or structure;

(f) in the case of works other than domestic gardening works, the laying of paths, hard-standings or foundations for buildings or the erection of fences or other barriers.

Class II. Works by the Coal Authority of their Licensees

Works executed more than 10 metres below ground level by the Coal Authority or any holder of a licence granted under Part II of the Coal Industry Act 1994(a).

Class III. Works by the British Waterways Board

Works executed by the British Waterways Board in relation to land owned or occupied by them, being works of repair or maintenance not involving a material alteration to, or a reconstruction of, a scheduled monument which are essential for the purpose of ensuring the functioning of a canal.

Class IV. Works for the Repair or Maintenance of Machinery

Works for the repair or maintenance of machinery, not involving a material alteration to, or a reconstruction of, a scheduled monument.

Class V. Works urgently necessary for health or safety	Works which are urgently necessary in the interests of health or safety, provided that: (a) the works are limited to the minimum measures immediately necessary; and (b) notice in writing justifying in detail the need for the works is given to the Scottish Ministers as soon as practicable.
Class VI. Works of Archaeological Evaluation	Works of archaeological evaluation executed by or on behalf of a person who has applied for scheduled monument consent, being works executed - (a) in order to supply the Scottish Ministers with information required by them for the determination of that application; (b) under the supervision of the Scottish Ministers or a person approved for that purpose in writing by the Scottish Ministers; (c) in accordance with a written specification approved for the purpose by the Scottish Ministers; and (d) with the written agreement of the owner or owners of the scheduled monument where that person is not the sole owner.
Class VII. Certain works executed under Agreements under section 17 of the Act.	Works for the maintenance or preservation of a scheduled monument or its amenities executed in accordance with a written agreement between the occupier and the Scottish Ministers under section 17 of the Act.
Class VIII. Certain works grant aided under section 24 of the Act.	Works for the preservation, maintenance or management of a scheduled monument being works executed in accordance with the terms of a written agreement under section 24 of the Act whereby the Scottish Ministers undertake to defray or contribute towards the cost of such works.
Class IX. Certain works undertaken by the Royal Commission on the Ancient and Historical Monuments of Scotland.	Works comprising the placing of survey markers to a depth not exceeding 300 millimetres for the purpose of measured surveying of visible remains undertaken by the Royal Commission on the Ancient and Historical Monuments of Scotland.

The Scottish Ministers are, however, empowered to remove this consent, by the issue of a Direction, in any particular case. If this is done, SMC would need to be obtained in the normal way.

If you are in any doubt as to whether works that you propose require consent, Historic Scotland will be pleased to advise you provided that you supply full details of what is to be done.

3. **How is an application for consent made?**

You should apply to Historic Scotland, on behalf of the Scottish Ministers, on the accompanying form. You must notify all other parties with an interest in the monument of your application. A form is supplied for this purpose. It may be copied as required. Failure to notify other parties and show that you have done this means that the Scottish Ministers may refuse to entertain your application. You must complete one of the Certificates A-D on the "Certificate of Ownership Interest" enclosed. Return all relevant sections of the form supplied, and a copy any notice issued to other parties, to Historic Scotland.

4. What other information will Historic Scotland need?

The form sets out the basic information required to enable an application to be considered. Replies to Q4 and Q6 need to be particularly informative and detailed so that Historic Scotland can establish precisely and unambiguously how the monument will be affected by the proposed works.

If you have obtained full or detailed planning permission for the works, you should enclose a copy with the SMC application (it will rarely be feasible to apply for SMC at outline planning approval stage because of the degree of detail needed to assess the likely archaeological disturbance).

Agricultural activities are a major cause of disturbance to archaeological deposits and full details of proposals (eg depth to which it is intended to plough, precise location and depth of mole drains etc and the type of machinery intended to be used) should accompany an application.

Where ground disturbance will occur for the laying of underground services and pipelines, for example, the application plan (ideally a 1/500 survey) should show the exact line, width and depth of any trenches. Similar information will be needed when excavation is to take place for foundations or stanchions.

For works affecting upstanding masonry remains, it is recommended that the services of a registered architect and/or allied professional are secured. Ideally the applicant's architect's report should accompany the SMC application. A specification and working/elevation drawings to a scale of 1/50 (or 1/20 for specific details) should be provided wherever possible together with a 1/500 scale site plan. Up-to-date photographs of the areas of the monument for which repair or consolidation works are proposed are required if no elevation drawings are available. Generally only repairs using original and traditional materials are likely to receive SMC and remedial structural measures not damaging to the remaining fabric of the monument are preferred.

5. How will the application be processed?

The views of Historic Scotland's Area Inspector of Ancient Monuments and Architect (if necessary) will be obtained and following consideration of these views a provisional decision letter will be sent to you.

6. Will I be able to discuss my proposals?

The Area Inspector of Ancient Monuments may be able to meet you at the monument, if necessary, to discuss your proposals where this has not been done prior to the submission of the application. This may clarify any ambiguities. It is however always much more helpful to have such meetings before the application is actually sent in.

The Scottish Ministers must offer you the opportunity of a hearing (usually in the form of a public local inquiry) before they determine your application. If you have been refused planning permission for the works that you propose to carry out and have lodged an appeal, there will be a strong case for both matters to be considered at a joint inquiry.

The Scottish Ministers have adopted a procedure whereby an applicant is given the opportunity of a hearing in a letter setting out a provisional decision based on the evidence accompanying the SMC application, and the views of Historic Scotland's Inspectorate of Ancient Monuments. Most applicants are content to accept the Scottish Ministers' 'provisional decision', without a public local inquiry, where consent is granted unconditionally or with conditions. The right to a public local inquiry is however a legal entitlement available to those who wish to use it.

7. How long will it take to determine my application?

Much will depend on the complexity of the case and whether you have provided sufficient information with your application. As a general guide, we aim to provide an applicant with a provisional decision within 6 weeks of receipt of an application - or of any further information that may be required to complete a submission. Issue of a final decision will depend on whether the provisional decision is acceptable to an applicant or whether a hearing is requested or an applicant wishes to make further written representations.

8. **What if my application is refused?**

An appeal against a decision to refuse scheduled monument consent may be made to the Court of Session on a point of law.

An owner or anyone with an interest in a monument who incurs any loss or damage as a result of the refusal of SMC(or its grant subject to conditions which make it impossible to use the monument in the case of (c) below) may have an entitlement to compensation where the works proposed:

- a. are reasonably necessary to implement a planning permission granted before the monument was scheduled;
- b. do not constitute development or are permitted development under the provisions of a general development order;
- c. are reasonably necessary for the continuation of any use of the monument for any purpose for which it was in lawful use immediately before the date of the application for scheduled monument consent.

(In the case of (b) compensation is not payable where refusal relates to works which would totally or partially destroy a monument except for the purposes of agriculture or forestry. Full details can be found in section 7 of the 1979 Act.)

9. **What about consent for excavations at scheduled sites?**

If the proposed works will involve breaking of the existing ground surface within the scheduled area eg for pipe-laying etc, you must also complete the supplementary excavation form attached to the SMC application. In this situation it is likely that at least archaeological supervision of the excavation would be required. The excavation form must also be completed where a purely research-based excavation is being undertaken. Where consent is granted for this, it will have conditions attached to it and will be granted for a specific period, normally one year. Where appropriate, on completion of a dig the site must be returned to a condition which will not lead to deterioration through the after-effects of excavation.

Applicants for consent to undertake research excavations must demonstrate that the research strategy has been designed to achieve clearly identifiable objectives and that full consideration has been given to alternative means of achieving those objectives by, for example, the excavation of a non-scheduled site. Applications must, therefore, be accompanied by:

- i. a statement setting out why it is necessary to excavate a scheduled monument instead of a non-scheduled site and the reasons for selecting the particular monument in question;
- ii. an outline of what non-destructive techniques such as field survey, geophysical survey, building or aerial photography have and will be used to frame the excavation strategy;
- iii. an indication of the objectives that it is hoped will be achieved by the excavation;
- iv. details of any analogous excavations on the application site or elsewhere.

The Scottish Ministers will also require the applicant to demonstrate that sufficient resources (both finance and manpower) have been arranged to ensure that:-

- i. the excavation can be adequately supervised, will conform with health and safety requirements, and completed within the proposed time-scale;
- ii. post-excavation work including conservation (unique material arising from the excavation should be permanently preserved with public access), dating (C14, dendrochronology etc) and environmental work can be undertaken; and
- iii. the excavation report will be completed within 5 years of the end of the excavation and publication of the results will not be delayed because of outstanding commitments (in this connection, where the applicant holds an academic or institutional post the Scottish Ministers will expect the application to be accompanied by an assurance that his/her Head of Department/Institution supports the

project and that the applicant's other duties will not prevent the early completion of the post excavation work).

Applicants should keep Historic Scotland informed of the success of funding applications and of any proposed modifications of excavation strategy caused by a funding shortfall. A radical change in strategy may be cause to modify or revoke an existing SMC.

Applications for works on a scheduled monument not under threat from development proposals or damage by erosion etc will be subjected to rigorous examination. Applicants for SMC should ensure, therefore that their applications are fully documented and that they are submitted well in advance of the proposed start date of the proposed excavation to allow time for the resolution of queries. In controversial cases, the Scottish Ministers may have to hold a public inquiry and this factor needs to be taken into account in planning a research excavation.

HISTORIC SCOTLAND

Longmore House, Salisbury Place,
Edinburgh EH9 1SH

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