

## Listed Buildings and Scheduled Monuments

### Listed Buildings

The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended, is the legislation through which a building of special architectural interest is recognised.

Listed buildings are managed as part of the planning system, through Listed Building Consent and proposed alterations require to be carefully considered in order to ensure that they are appropriate and sympathetic to the character of the building. An owner cannot be required to undo any changes made prior to the building being listed.

It should be noted that Listed Building Consent is distinct from planning permission and both may be required for planned works. Also, listing relates to both the exterior and interior of the building, regardless of the category of listing.

In Scotland, the three categories of listed buildings are:

**Category A** buildings are of national or international importance, either architecturally or historically; are largely unaltered; and our outstanding examples of a particular period, style or building type;

**Category B** buildings are of regional or more local importance; may have been altered; and are major examples of a particular period, style or building type;

**Category C** buildings are of local importance, are lesser examples of a period or style or building type; and are as they were originally constructed or only moderately altered.

The local planning authority will be able to advise what exactly is covered by the listing, which may include any object or structure within the curtilage of a listed building, such as boundary walls or stables.

Like-for-like repairs will likely not require Listed Building Consent nor alterations to a building part that is not identified as not of special interest, but relatively minor works such as replacing or altering windows might and so obtaining confirmation in advance from the local planning authority is advised in all cases. Where needed, the requirement to obtain Listed Building Consent for relevant work never expires. Therefore on acquisition, where there has been extension of or alteration to a listed building, the Listed Building Consent should be sought with the title deeds or confirmation from the local planning authority that consent was not required. Failing this, retrospective consent may need to be sought.

If it appears that unauthorised works are being or have been executed to a listed building, the local planning authority may raise an action for interdict or issue a Listed Building Enforcement Notice, which will detail the contravention and steps requiring to be taken to

**IMPORTANT NOTE:** This information sheet reflects information reviewed at the time of its publication. Accordingly, account must always be taken of any relevant changes in law, policy or other circumstances since that time. It is for general information only, and must never be relied upon as any substitute for appropriate professional advice, which should always be taken in any situation in which financial or other interests may be at stake. No liability can be accepted by Scottish Land & Estates or its employees for any misstatement in it or omission from it.

restore the building or ensure it complies with a consent had it been properly applied for. A “Stop Notice” or “Temporary Stop Notice” can also be applied for.

It is an offence to demolish, extend or alter a listed building without a Listed Building Consent. The guilty party is liable on summary conviction to imprisonment for a maximum of six months or a fine not exceeding £50,000 or both, or on indictment to imprisonment for a maximum of two years or an unlimited fine, or both. The court in sentencing will have regard to any financial benefit accruing to the guilty party.

Owners, occupiers and tenants have a statutory right of appeal for new listings and changes to statutory addresses of existing listed buildings; but there is no statutory right of appeal for delisting, decisions not to list or changes in listing category.

## **Scheduled Monuments**

Scheduling is undertaken by Historic Environment Scotland under the Ancient Monuments and Archaeological Areas Act 1979, assessing each monument on its merits (which can also relate to its setting) and using the criteria set out in the Scottish Historic Environment Policy 2011. The intention is to preserve important national monuments or sites as near as possible to their current condition and there are over 8,000 throughout Scotland. The scheduled monument is provided with an entry on the schedule, including a description of what is scheduled and map showing the scheduled area. It remains the property of the landowner and does not provide any public rights, nor is there any duty on the owner to improve or maintain the management of the site. However, it is important that the landowner advises every person working on their land, including contractors, that there is a scheduled monument, including the extent of the ground. Also, on purchase of land, a standard check will show if there is a scheduled monument, in which case scheduling documentation should be obtained from the seller.

Historic Environment Scotland, along with the owner, does require to give consent for most works (including tree planting and flood prevention) in the scheduled area or in relation to the monument itself. This would not include those works under the Ancient Monuments (Class Consents) (Scotland) Order 1996. Where consent is required, but not obtained, this is an offence and Historic Environment Scotland can take various courses of action from referral to court to an advisory/warning letter where no damage has taken place or conditions have not been breached. Three forms of notice can also be served: an enforcement notice; a stop notice; a temporary stop notice.

Non-compliance with an enforcement notice permits Historic Environment Scotland to enter the land and undertake any unfulfilled requirements of the notice and to recover costs. There is no time limit on Historic Environment Scotland taking monument enforcement action.

It is illegal to use any equipment capable of detecting metal within a scheduled monument area without first obtaining “Section 42” consent.

Jason Rust  
February 2017

**IMPORTANT NOTE:** This information sheet reflects information reviewed at the time of its publication. Accordingly, account must always be taken of any relevant changes in law, policy or other circumstances since that time. It is for general information only, and must never be relied upon as any substitute for appropriate professional advice, which should always be taken in any situation in which financial or other interests may be at stake. No liability can be accepted by Scottish Land & Estates or its employees for any misstatement in it or omission from it.