

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 — Buildings of special architectural or historic interest

Chapter 2 — Control of works affecting listed buildings

Section 99 — Application for variation or removal of conditions

346. *Section 99* permits any person interested in a listed building to apply to the planning authority for the variation or removal of conditions attached to a consent for that building.
347. The use of the term “removal” in this section represents a change from the corresponding “discharge” in section 19 of the 1990 Listed Buildings Act, from which it is derived. This will help to reduce confusion between the matters in section 99 and what is widely known in the historic environment sector as the “discharge” of a condition — the approval by a consenting authority of details of works required by a condition, often necessary before works can progress. Application for such approval (discharge) is made on the standard IAPP form provided on the Planning Applications Wales website. In such applications, since the applicant is only seeking acknowledgement of compliance with a condition rather than any alteration to it, the application requirements are minimal and the procedures are straightforward.
348. This change accordingly helps to clarify that section 99 is concerned with alterations to the conditions of a listed building consent, which could potentially impact upon the character of a listed building. Consequently, subsection (3) provides that an application for variation or removal of conditions must comply with all the listed building consent application requirements and procedures set out in sections 90 to 95 (except the requirement for a heritage impact statement in section 90(4)). This includes that the application will usually be made to the planning authority in whose area the building is situated (unless specific enactments apply to the application), and the requirement for the planning authority to notify the Welsh Ministers if it intends to grant the application, allowing the Welsh Ministers to call the application in for determination.
349. Subsection (5) stipulates that this section does not apply to a consent granted by a listed building partnership agreement. Just as the listed building consents contained in a listed building partnership agreement would be a matter of negotiation between the parties to the agreement, so too would any variation or removal of conditions of those consents. Section 114(2)(e) requires a listed building partnership agreement to make provision for its variation, which could include, but would not be limited to, the variation or removal of conditions.