



**DEVELOPMENT &
INFRASTRUCTURE
COMMITTEE**

DATE: 11 AUGUST 2009

REPORT NO: D&I 009-09

**BY DIRECTOR OF DEVELOPMENT AND
INFRASTRUCTURE**

CONTACT OFFICER

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SUBJECT

**HISTORIC SCOTLAND CONSULTATION
THE ANCIENT MONUMENTS AND LISTED BUILDINGS
(AMENDMENT) (SCOTLAND) BILL**

1.0 PURPOSE

- 1.1 The purpose of this report is to inform Committee on the publication Historic Scotland's consultation paper on the "The Ancient Monuments And Listed Buildings (Amendment) (Scotland) Bill" and to agree a response.

2.0 SUMMARY

- 2.1 Historic Scotland's consultation paper on The Ancient Monuments and Listed Buildings (Amendment) (Scotland) Bill was published on 20 May 2009. The consultation period ends on 14 August 2009.
- 2.2 The overarching aims of the Bill are to improve the management and protection of Scotland's historic environment by addressing the gaps and weaknesses of the current historic environment legislative framework that were identified during the year-long stakeholder engagement process; to avoid introducing significant new burdens or duties; and in a challenging economic period to keep the implementation costs low.
- 2.3 The bill places no new burdens on East Dunbartonshire Council, and relates specifically to Historic Scotland.
- 2.4 Generally, the Bill will improve the efficiency and effectiveness of the protection of Scotland's Historic Environment, without impacting significantly on Local Planning Authorities.

3.0 RECOMMENDATION

It is recommended that:

- 3.1 That the committee note the contents of this report.
- 3.2 That the committee submit this report to Historic Scotland as response on the consultation.

Director of Development and Infrastructure

4.0 BACKGROUND

- 4.1 The Bill is part of Scottish Government’s programme to streamline, simplify and clarify the system for protecting and managing the historic environment. The Bill ties in with the 1979 and 1997 Acts.
- 4.2 The Bill will place no new burdens or duties on central or local government, owners of assets, business or members of the public. The new powers that it will introduce , such as scheduled monument enforcement notices and powers to serve fixed penalty notices in relation to a breach of a listed building enforcement notice, will complement existing powers and their use will be at the discretion of the regulatory authorities.
- 4.3 The new provisions for a ‘certificate that building not intended to be listed’ (or ‘certificates of immunity from listing’) will provide greater certainty for individuals and business planning development.
- 4.4 The bill will also: -
- Remove uncertainty, for example, by introducing a new power that will enable Scottish Ministers to offer any person a certificate of immunity from listing that will guarantee that a building will not be listed during the five years from the date of the certificate.
 - Enhance the ability of the regulatory authorities to work with developers by making it clear that Scottish Ministers can specify in a grant award letter the amount of grant that would be recoverable in certain circumstances.
 - Align aspects of the listing and scheduling systems, for example by enabling Scottish Ministers to issue a scheduled monument enforcement notice which will parallel similar provisions in the 1997 Act; and by harmonising the level of fine on summary conviction under sections 2 and 28 of the 1979 Act and section 8 of the 1997 Act.
 - Contribute to planning improvement by removing the right to be heard in connection with applications and appeals under the 1997 Act in line with similar procedures in planning legislation.
 - Increase deterrents by raising the level of fines on summary conviction; by empowering Scottish Ministers to serve a scheduled monument enforcement notice that will allow for the reversal or amelioration of unauthorised works, or works in breach of any conditions attached to a scheduled monument consent to scheduled monuments; and, by enabling local planning authorities to issue fixed penalty notices as an alternative in cases when a person is in breach of a listed building enforcement notice.
 - Improve capacity to deal with urgent threats by introducing new powers to enable a person authorised by the Scottish ministers to enter land to carry out essential investigatory works, including excavations for the purpose of archaeological investigation where they know or have reason to believe that any ancient monument is at risk of imminent damage or destruction.
 - Remove obstacles to the use of existing powers by introducing explicit powers to enable Scottish Ministers to offer ancient monuments grants to a third party to undertake works of preservation, maintenance and management of an ancient monument.

5.0 IMPLICATIONS

5.1	Finance	None
5.2	Legal	None
5.3	Human Resources	None
5.4	Public Relations	None