

The Ancient Monuments and Listed Buildings (Amendment) (Scotland) draft Bill (CON 1153)

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Dear Sir/Madam,

The Ancient Monuments and Listed Buildings (Amendment) (Scotland) draft Bill (CON 1153)

I refer to the above Bill and thank you for consulting this authority on the draft document. I would emphasise the following is an officer response only and does not represent a corporate committee approved response. With that caveat I welcome the opportunity to comment as follows:

CURRENT ACTS (para. 1.4)

The 3 Acts of Parliament to which the new Bill relates are acknowledged i.e.

“ the 1953 Act”: The Historic Buildings and Ancient Monuments Act 1953
“ the 1979 Act”: The Ancient Monuments and Archaeological Areas Act 1979
“ the 1997 Act”: The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1977

EARLIER CONSULTATION

The first consultation process identified certain gaps and weaknesses in the current legislation (para.4.5) which the draft Bill rightly seeks to address rather than doing nothing or re-writing the existing Acts.

GENERAL COMMENDATION

The thorough coverage of each item is commended. Particularly welcome are the additional powers relating to unauthorised works to scheduled monuments and listed buildings by way of

- Additional stop notices(Sections 21 and 22)
- A much increased fines – up to £50,000 (Section 19)

- Fixed penalty notices as an alternative to prosecution (Section 23)
- An escalating rate of charges in the event that a breach of enforcement notice continues (Section 23).
- Liability over successor to owner (Section 25).

A good balance appears to be struck in relation to the rights of the private individual. On the one hand a year “immunity from listing” can now be applied for but “rights to be heard” in relation to planning applications and appeals are reduced.

MINOR CONCERN: COSTS to LOCAL AUTHORITIES

Para.3.9/10 argues that the Bill will only make available new powers, not additional duties to a local authority. Para.4.11 explains that this will result in “minor administrative costs” to the local authority which will however be “manageable and absorbable”. However it may be appropriate for the Bill, or at least the covering notes, to acknowledge that the expanded powers are clearly designed to encourage local authorities to take action previously held back from because of concerns about capability to use the existing powers to effect.

There are no further comments.