

Contact: Richard Cartwright  
Tel: 01236 616537  
Fax: 01236 616206  
E-mail: CartwrightR @northlan.gov.uk  
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Your Ref:



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BUILDING · CONSERVATION

*Making Heritage Work*

Richard Cartwright  
IHBC Consultations Secretary  
c/o Environmental Services  
North Lanarkshire Council  
Fleming House  
Cumbernauld G65 1JW  
<http://www.ihbc.org.uk/>

Mr Gordon Barclay  
Policy Team  
Historic Scotland  
Longmore House  
Salisbury Place  
Edinburgh EH9 1SH

Dear Gordon

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

The Institute of Historic Building Conservation is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

The Scottish branch of the Institute of Historic Building Conservation (IHBC) welcomes the opportunity to respond to this consultation and our comments are attached. I am separately attaching a completed Respondent Questionnaire form.

We are please to have the opportunity of responding to this consultation and hope that our views will be taken into consideration. If you wish for clarification or further discussion on any matter raised by us, please contact myself initially

Yours sincerely,

Richard Cartwright  
Scottish Consultations Secretary  
Institute of Historic Building Conservation

The proposals in the Bill are generally welcomed by the Institute although we are disappointed that a more comprehensive review of Heritage legislation is not being pursued at this time, as recommended in the HEACS report.

Of the measures in the new draft Bill, the following are particularly supported:

Section 2, extending the offence from damage to 'disturbance' of an AM

Section 4, removing the defence of ignorance

Section 5, increasing level of fines

Section 6, clarifying powers of entry to inspect a SM

Section 7, on SM Enforcement Notice, Stop and Temporary Stop Notices

Sections 8-10 on Monuments under Guardianship, extending powers of Sc Ministers to fund / provide public facilities.

Section 11, extending grants for AM's to 3<sup>rd</sup> Parties incl tenants and conservation charities.

Section 14, new power for Sc Ministers to give grants to anyone promoting understanding of the historic environment.

Section 17, introducing ability to refuse to accept a SM application within 2 years of a similar application.

Section 19, increase in fines as a deterrent to unauthorised LB works

Sections 21/22 on Stop and Temporary Stop Notices wrt unauthorised LB works, and new powers of entry

Sections 23/24 new fixed penalty fines for breach of LB enforcement, including escalation if breach continues- support provided fines are sufficiently large to act as a strong deterrent.

Section 25, liability for Urgent Works costs to be registered against the property (& any new owner), instead of owner at time- strongly support this very useful measure.

The main contribution in this response from IHBC is to suggest that, within the parameters of the review, there may be opportunities to add to the Bill's provisions and increase its usefulness. Our suggestions for additions are:

### **Conservation Areas**

- Some general additional controls on development in Conservation Area should be introduced, ie universal CA restrictions on permitted development\* (*could add after Section 65 of 1997 Act*) – thereby reducing the burden on Local Authorities to prepare Article 4 Directions. Alternatively, could introduce a simpler method for LA's to withdraw PD rights in CA's where appropriate.
- Encouragement to LA's to carry out Conservation Area Appraisals and Management Plans \* (*amend the duty in Section 63 of 1997 Act which is 'to prepare preservation and enhancement proposals' to reflect current best practice and PAN71*)

### **Certificate of Immunity from Listing (as proposed Sec 18 of Bil)**

- A legal basis for reviewing the 'immunity' from listing during the term of the certificate should be included, should new information come to light\* (*amend Section 18 of draft Bill*)
- We suggest that the period for the proposed certificate of immunity be changed from 5 to 3 years (*amend Section 18 of draft Bill*).
- We suggest a restriction on who can apply for a Certificate of Immunity be included (ie someone with a legitimate interest in a property), along with a fee for the application, to seek to avoid the danger of many blanket applications and a significant diversion of resources away from the workload of Historic Scotland's crucially important list review work (*amend Section 18 of draft Bill*).

### **Listed Buildings- Grants**

- Further extending availability of grants to LA's is sought, to underwrite costs of serving and carrying out Urgent Works and property purchases after Repairs Notice served – helping to remove local authority reluctance to act \* (*amend Section 49/50 or 69/70 of 1997 Act*).
- enabling listed building acquisition grants to be given to more bodies than LAs and NTS is also suggested by IHBC, to encourage the involvement of eg Building Preservation Trusts (*further amend Section 69/70 of 1997 Act*).

### **Listed Buildings- Ecclesiastical Exemption**

- The Institute believes there is a strong case to remove ecclesiastical exemptions and considers that this would not constitute a heavy additional burden on local authority resources \* (*could be introduced by amending Section 54 of 1997 Act*)

### **Listed Buildings- Other**

- Introduce a requirement to notify the LA upon starting to implement a LBC, a time limit for the LBC once work has commenced, and also a requirement to seek a LBC Completion Certificate, which would assist monitoring work and reduce burdens on Local Authorities (*amend Section 16 of 1997 Act*).
- Need to make clearer who is responsible to request historic building recording prior to LB works being carried out (*amend Section 15 of 1997 Act*).
- Added protections to buildings between being identified for listing and actual listing \* (*add after Section 3/4 of 1997 Act*)
- Remove 'deliberate' when applied to owners allowing LBs to fall into disrepair, to make it easier for minimum compensation to be awarded and thereby provide a better deterrent to owner neglect \* (*amend s45 of 1997 Planning LB's and CA's Act*).
- Local listing with legal protections should be introduced, as an optional statutory designation for LA's to use (*could be introduced as new Section between Part II on CA's and Part III General of 1997 Act*).

### **Archaeological Issues**

- Introduce interim protection for assets under consideration for scheduling, as suggested for LB's above.

### **Other Points**

- LB and ancient monument responsibilities of LA's should be set within the context of asset management \* (*add to Section 53 of 1997 Act*)