

Submission by THE SCOTTISH CASTLES ASSOCIATION (SCA)

The Scottish Castles Association **welcomes**

1. **The clear statement** in paragraph 1.16 on page 13 of the paper explaining the background and purpose of the Bill **that ‘scheduled monuments should, as far as possible, remain in the state that they come down to us’ whereas ‘listed buildings should remain in active use’**. We suggest that this should be included in the Bill. Both these approaches, however, demand active intervention from time to time.
2. **The introduction (Section 11) of Grants to Third Parties to preserve, maintain and manage scheduled monuments**. This will encourage restoration under heritable leases and so may be attractive to owners who are reluctant to sell unrestored tower houses but who would be keen to enter into lease arrangements.
3. **Section 18 certificates confirming the non-listing of buildings**. The introduction of this clause will remove uncertainties with regards to the redevelopment of older buildings, particularly within towns and inner cities. However, where an application has been made but Scottish ministers are unable to issue a certificate, the reason for the refusal should have to be given and the decision should be subject to an appeal procedure. This would ensure an evenhanded approach which, we feel, would be reasonable in the circumstances.

The SCA, however, has **reservations** about

1. Temporary and Enforcement Notices (Sections 21 & 22)

The need to introduce enforcement and stop notices against unauthorised works has long been recognised by Scottish Castle Association members. However, we feel that Scottish Ministers should introduce checks and balances against statutory notices being issued overzealously and / or unreasonably. We are aware of situations in the past where owners have lodged applications for alterations which they felt were both necessary and reasonable and started the work because Historic Scotland had failed to determine the application timeously. Although we acknowledge that steps are being taken to address inconsistencies and delays, we feel that the Bill should include a mechanism to prevent the unreasonable use of temporary stop notices. Consideration should also be given to the introduction of a third party appeal procedure in such cases.

2. Section 25 liability of owners and successors for expenses of urgent works

The need to recover expenses properly incurred in respect of the preservation of a listed building served under a statutory notice procedure are well meaning and it is sensible to extend powers of recovery to subsequent owners. Although this may appear to be attractive to the public purse, it risks creating legislative blight which may, in the longer term, be detrimental to the restoration of many more listed buildings than those on which such an

order is served. As a counterbalance, an offer of grant aid should be available to address the situation of the owner of a Listed Building who has insufficient funds to undertake emergency repair work in such circumstances.

SCA recommends that Scottish Ministers reconsider this clause. It would appear to be largely unworkable in practice, may result in the abandonment of dilapidated listed buildings, and the restoration of such buildings may incur greater cost to the public purse in the longer term.

Finally, the SCA **regrets** that this Draft Bill did not take the opportunity to streamline the procedures and timescales for granting Listed Buildings Consent. We are also concerned that the present timescales may unintentionally be extended by some of the proposals in the Bill.