

14<sup>th</sup> August 2009



Policy Team  
Historic Scotland  
Room 2.9  
Longmore House  
Salisbury Place  
Edinburgh EH9 1SH

22B Alva Street  
Edinburgh  
EH2 4PY

T: 0131 220 6303  
F: 0131 220 6304  
E: spfadmin@bpf.org.uk

## **Comments on the Ancient Monuments & Listed Buildings (Amendment) (Scotland) Bill**

1. We welcome this opportunity to comment on the draft Ancient Monuments & Listed Buildings (Amendment) (Scotland) Bill. We are happy for our comments to be made public.
2. The Scottish Property Federation is a representative body for the Scottish commercial property industry and speaks for over 100 corporate members. Included within our membership are commercial property developers, landlords and managers, fund managers, property owners and long term investors in both commercial and residential property. We are an integral part of the UK-wide British Property Federation which represents most of the UK's largest property investors, developers and professional property industry advisers.
3. According to research published at the end of 2007 the commercial property industry in Scotland was worth some 8.5% of gross value added to the Scottish economy, representing some £7.34bn in 2005.<sup>1</sup> Since the onset of the credit crunch in late 2007 the economic output of the sector has been significantly impaired leading to a fall of some 40% in the value of new construction orders by the commercial property industry in Scotland from 2007 to 2008<sup>2</sup>. Commercial property values in Scotland are also estimated to have fallen by some 40% since their peak in mid-2007<sup>3</sup>.
4. The Scottish Property Federation supports appropriate protection and investment in historic buildings and monuments of significant national importance. We recognise that it is important that policy protects and safeguards such buildings. By doing so, we preserve the value of not just our heritage but also our built environment.

---

<sup>1</sup> GVA Grimley: the role and contribution of commercial property in the Scottish economy, commissioned by the Scottish Property Federation (2007)

<sup>2</sup> Annual Construction statistics, then UK Department for Business, Enterprise & Regulatory Reform (2009)

<sup>3</sup> Jones Lang La Salle (December 2008)

5. Indeed the private sector is the major stakeholder in many ways in the protection and preservation of the historic environment – a matter recognised by the historic environment audit report of 2007:

‘Historically, private investment has been the largest source of funding for the historic environment, and it is likely that this will continue to be the case. The majority of historic environment assets are privately owned and receive no public assistance for their maintenance and management’<sup>4</sup>

6. However there have been serious concerns expressed by our members that the use of listed building powers is not consistent or is sometimes arbitrary and ineffective. We believe that the best possible form of preserving heritage property is to ensure its appropriate continued use and maintenance and this can require the refurbishment and modernisation of some parts of a building in order to preserve its usability.

### **Approach to legislation and other policy areas**

7. We recognise that Ministers have made a decision not to opt for root and branch reform of heritage legislation related to the built environment. Ministers are nonetheless seeking to improve and harmonise a great deal of legislation and practice related to the historic environment – and we welcome much of this policy. As ever, the key will be how the new powers outlined in the consultation paper will be employed, such as the removal of the defence of ignorance and enforcement procedures.
8. A major area that we would welcome reconsideration of is the inclusion of conservation area policy in Scotland. SPF members have voiced concerns over the apparently unaccountable manner in which conservation areas have been expanded over recent years and we feel that this major policy review could benefit from including conservation area policy with a view to identifying proper scrutiny of how conservation areas are identified and defined, with appropriate checks and balances.

### **Certificates of Immunity from Listing**

9. Certificates of Immunity for Listed Buildings are one of the main areas that officials are seeking feedback from the development industry. COIs have operated in England over a number of years at relatively little public cost as explained by the partial regulatory assessment. While this might be of some surprise to some commentators one reason is that COIs are not a straightforward proposal for developers who have to make a decision on whether they wish to undertake the scrutiny and process involved with protection from listing as well as the planning application processes. This may explain the relatively small numbers of applications that have been made in England.
10. Our members have nonetheless expressed their support for the COI system which if used appropriately will deliver greater certainty to landlords and developers considering a particular building project. Given the relative small cost - which is perhaps surprising but is supported by evidence from an already long-established system in England, we

---

<sup>4</sup> p31, Scotland’s historic environment audit, 2007 (Historic Scotland)

feel that the government proposals should be supported though we would like to see further certainty in relation to any potential costs and projected timescales for turning around COI requests.

### **Certainty for developers and property owners in relation to grants**

11. We recognise that the Bill is largely intended to amend existing legislation and practice, offering greater clarity and certainty to businesses and public authorities about the intention of government policy and the process of protecting heritage property (and monuments). Our members welcome this greater certainty and direction.

### **'Things' evidencing previous human activity**

12. We do raise questions however over the very broad definition applied to finds of apparent historical importance. The current draft in the legislation under section 16 simply relates to 'any thing' that evidences previous human activity. This is simply far too broad a definition and we recommend officials reconsider how to phrase this part of the legislation.

13. The Scottish Property Federation would be pleased to explain our comments in greater detail at your convenience.

**David Melhuish**  
**Director**  
**Scottish Property Federation**

