



Scheduling: protecting Scotland's nationally important monuments

‘...part of SCOTLAND’S IDENTITY ... valuable both for their
own sake and as A RESOURCE for research, education,
REGENERATION, leisure and tourism...’

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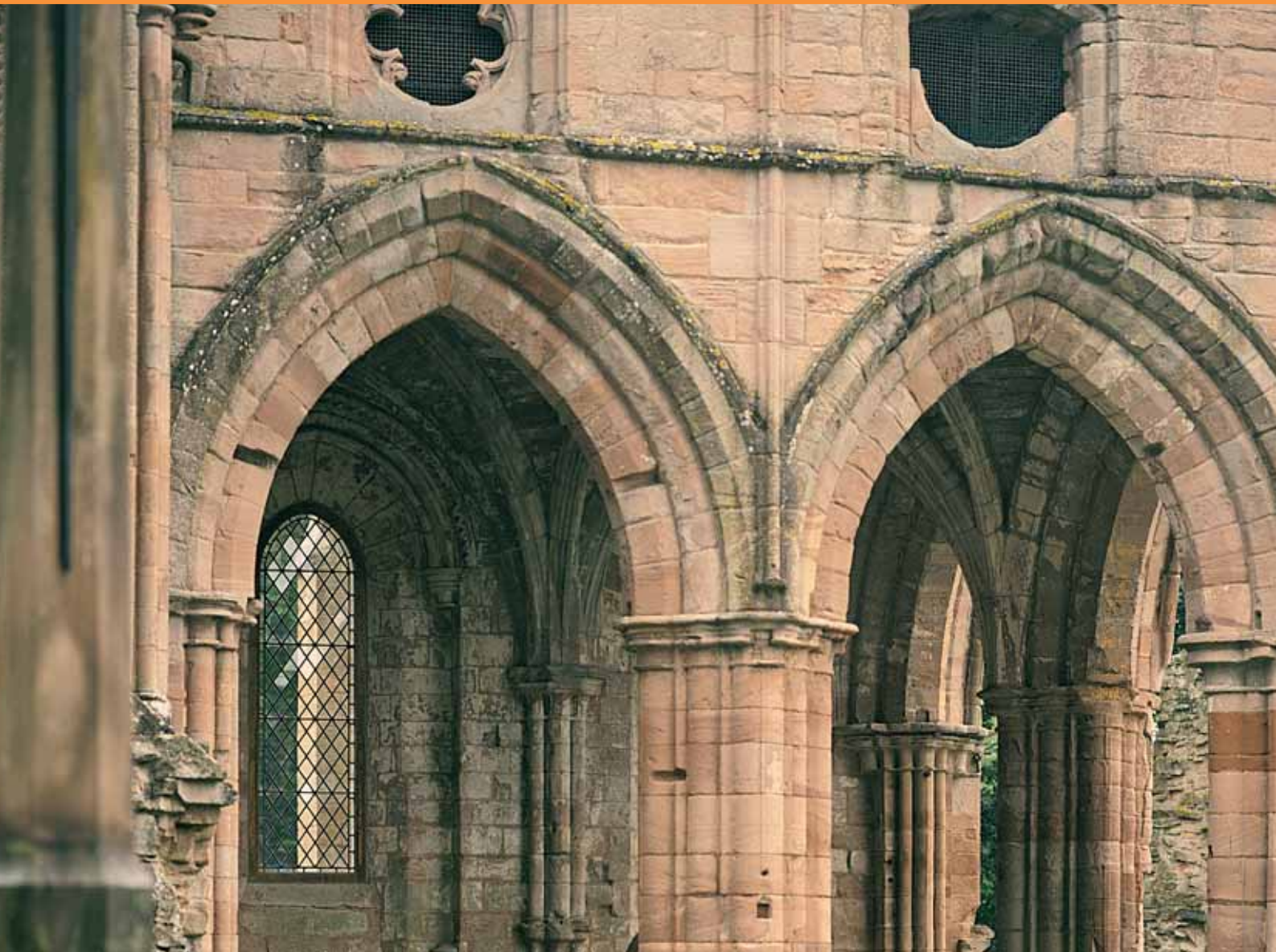
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Scotland's scheduled monuments are an important resource for tourism.



Foreword

An interest in the past, and the protection of the remains of past generations are marks of a civilised and confident society.

Every generation defines what it considers important enough to protect. Scotland's 8000 nationally important sites and monuments range from the middens of the first settlers over 9000 years ago to Cold War sites of the late 1940s, which were erected 60 years after the first Ancient Monuments Act became law.

However, it is only since the implementation of the Ancient Monuments and Archaeological Areas Act 1979 that we have had formal criteria for the selection of sites and monuments of national importance.

Scheduling a monument means that there are considerable restrictions as to what an owner or occupier can do to their site. It is vital that this is done with care and in a way that is open and accountable. In 2003–4 Historic Scotland conducted a major review of all aspects of the process of scheduling and in 2004 carried out a public consultation on its

proposals for change; the results of the consultation were published at the end of 2004.

This document sets out Scottish Ministers' policy on scheduling, taking account of the results of Historic Scotland's review and the public consultation. Scheduling will in future follow a carefully planned strategic programme, according to clear criteria for selection. It will take account of the importance of all of Scotland's past, with carefully targeted and measured progress towards an achievable end, and with greater local involvement.

We have set in place a system for protecting Scotland's heritage that the people of Scotland can understand and trust.

Patricia Ferguson MSP

Minister for Tourism, Culture and Sport

1. Introduction



Introduction

1.1 This paper sets out Scottish Ministers' policy for the identification and designation of nationally important ancient monuments. This process plays an important part in the conservation of evidence for Scotland's past.

1.2 Ancient monuments offer a tangible, physical link with the past. They are a finite and non-renewable resource containing unique information and have the potential to contribute to increasing our knowledge of our past. Such remains are part of Scotland's identity and are valuable both for their own sake and as a resource for research, education, regeneration, leisure and tourism. The remains are often very fragile and vulnerable to damage or destruction and care must be taken to ensure that they are not needlessly damaged or destroyed.

No part of our landscape has escaped the effects of human activity.

2. The legal context

2.1 The United Kingdom government is party to the European Convention on the Protection of the Archaeological Heritage (the ‘Valetta Convention’), which places an obligation on States, under Article 2, to institute a legal system for the protection of the archaeological heritage, on land and under water.

2.2 The United Kingdom has had legislation in place to protect ancient monuments since 1882. Currently, nationally important monuments in Scotland are protected under the provisions of the Ancient Monuments and Archaeological Areas Act 1979 (see Note 1) The Act places a duty on the Scottish Ministers to compile, maintain and publish a Schedule (a list) of monuments. Once included in the Schedule, monuments have legal protection. Up-to-date information on monuments contained in the Schedule is available from Historic Scotland or through visiting www.pastmap.org.uk.

2.3 ‘Monuments’ are defined in the 1979 Act as (see Note 2):

- a.** any building, structure or work, whether above or below the surface of the land, and any cave or excavation;
- b.** any site comprising the remains of any such building, structure or work or of any cave or excavation; and
- c.** any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other moveable structure or part thereof which neither constitutes nor forms part of any work which is a monument as defined within paragraph (a) above.
- d.** Any machinery attached to a monument shall be regarded as part of the monument if it could not be detached without being dismantled.

The definition of ‘remains’ includes any trace or sign of the previous existence of the thing in question (see Note 3).

2.4 To be scheduled, a monument must meet the Act's definition. A structure in use as a dwelling house cannot be scheduled as an ancient monument nor can buildings in ecclesiastical use, portable objects or wrecks protected under the Protection of Wrecks Act 1973.

2.5 The process of scheduling under the terms of the 1979 Act is entirely separate from the process of listing under the terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (see Note 4).

Scotland's scheduled monuments are an important resource for education.



2.6 The process of scheduling, 'descheduling' (removing a monument from the Schedule) and scheduled monument consent (the control of works affecting scheduled monuments) is undertaken on behalf of Scottish Ministers by Historic Scotland.

2.7 The sole legal criterion in the 1979 Act for inclusion in the Schedule is that a monument is of 'national importance'. (see Note 5). After consultation, Scottish Ministers have determined what constitutes national importance and how it should be determined. The Criteria and Guidance they have developed are set out in the Annex on pages 12 -15. (see Note 6).

2.8 Once a monument is scheduled, it becomes an offence to carry out, without the prior written consent of the Scottish Ministers (scheduled monument consent), any works which would have the effect of demolishing, destroying, damaging, removing, repairing, altering, adding to, flooding or covering up the monument (see Note 7).

2.9 The scheduling process and the need for scheduled monument consent run in parallel with the statutory planning process, where planning consent is also necessary for any planned work. The protection of ancient monuments is a material consideration in the determination of planning applications.

3. Scottish Ministers' policy on scheduling

3.1 The following principles will underpin the scheduling process:

- a.** the past of all parts of Scotland is worthy of study and should be considered for conservation;
- b.** no part of Scotland's past and no part of Scotland's land is inherently more or less likely to produce monuments of national importance than another;
- c.** scheduling will be based on an appreciation of the regional character of Scotland's past, as reflected in its ancient monuments, and on the basis of an up-to-date set of criteria and guidance;
- d.** scheduling will be applied to monuments across Scotland in a consistent way;
- e.** monuments that do not meet the criteria for national importance will be removed from the Schedule (descheduled);
- f.** owners and occupiers of land on which monuments lie, and the local authorities in which they are situated, will be consulted on proposals to add a monument to the Schedule, other than in exceptional circumstances;
- g.** scheduling will be an ongoing process that recognises that every generation will have its own view of what comprises its heritage;
- h.** decisions on scheduling and descheduling will be made on the basis of the best information available;
- i.** information on scheduled monuments and on the processes involved in scheduling will be made widely and easily available (see Note 8);
- j.** all decisions relating to scheduling will be explained in clear language;
- k.** scheduling is applied to secure the legal protection of monuments in the national interest. It is the intrinsic value of the monument to the nation's heritage that is the primary consideration in deciding whether or not a site shall be scheduled and in determining applications for scheduled monument consent.

4. Implementation

4.1 Historic Scotland plays the lead role on behalf of Scottish Ministers in implementing this policy on scheduling. In carrying out this work Historic Scotland will:

- a.** publish its operational policies on scheduling on its web site;
- b.** set out in its Corporate Plan the level of resources that it will commit to the programme of scheduling monuments;
- c.** add monuments to the Schedule through a strategic, normally area-based

programme run on a 30-year cycle. The agency's corporate plan will set out the areas to be tackled over the plan period and set targets;

- d.** reconsider all existing schedulings, as part of the area-based programme, and check, and where necessary correct, all existing scheduling documentation;
- e.** develop means, such as the successful PASTMAP site, of making information as widely available as possible, both to specialist users and to the general public; and
- f.** keep the strategic and operational policies on scheduled ancient monuments under review.

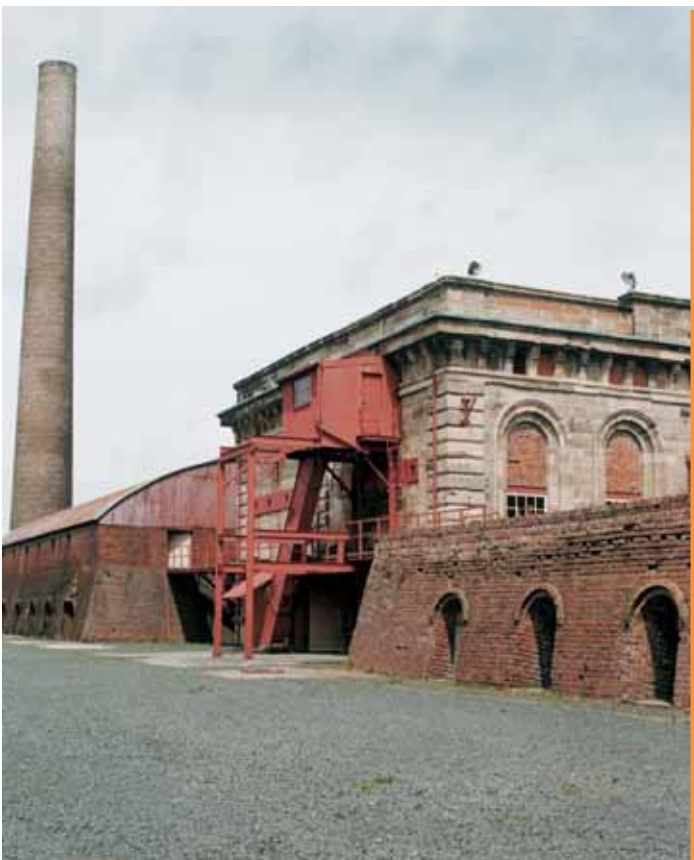
4.2 A further Scottish Historic Environment Policy paper on the scheduled monument consent process will be published.

Scotland's history is one of different regions. The recumbent stone circles of the North-East are found nowhere else.



5. Contacts

5.1 Further information on scheduling can be found on Historic Scotland's website www.historic-scotland.gov.uk. Copies of the booklet *Scotland's Scheduled Monuments* can be obtained from Historic Scotland at the address below.



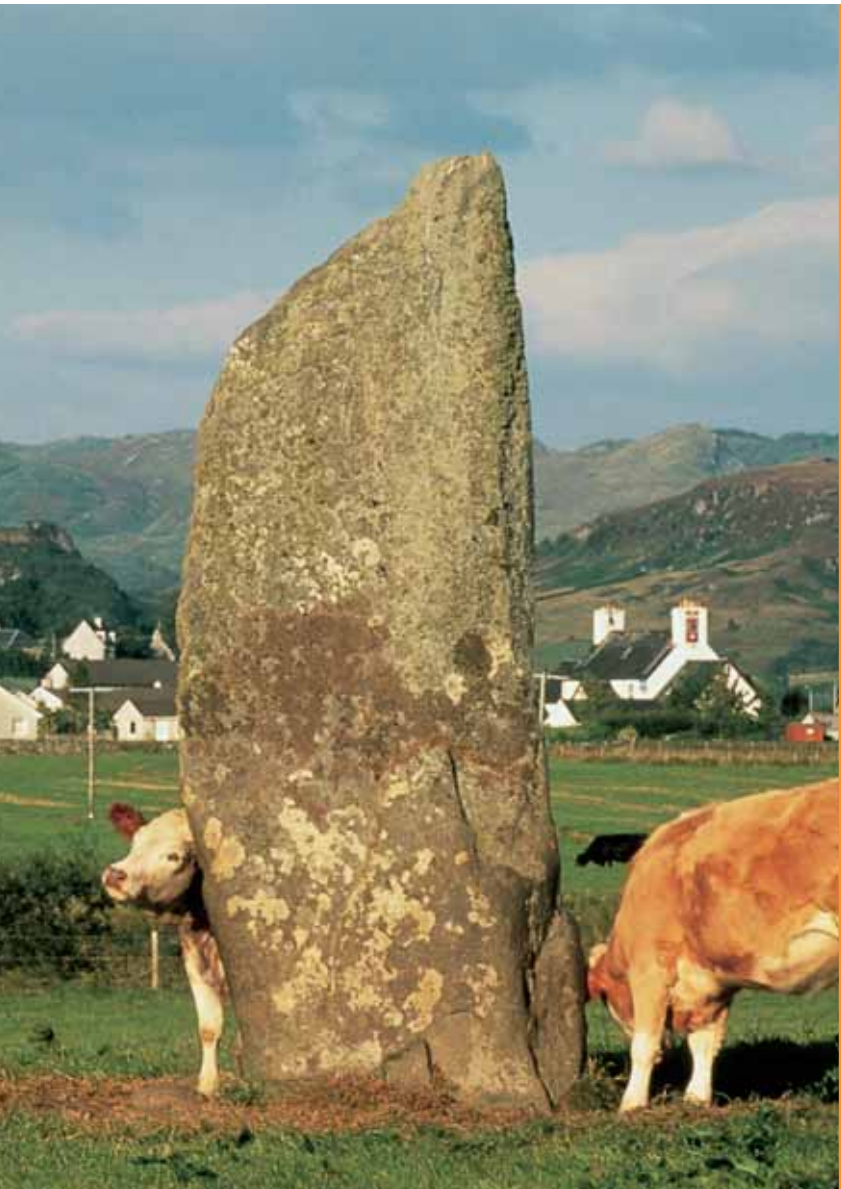
5.2 Specific queries on this paper or on the operation of Historic Scotland's scheduling programme should be directed to:

**The Head of Scheduling
Historic Scotland
Longmore House
Salisbury Place
Edinburgh
EH9 1SH**

(ancientmonuments@scotland.gov.uk).

Scheduling provides protection for the remains of aspects of Scotland's more recent past.

6. Notes



Note 1. Part II of the 1979 Act, relating to archaeological areas, was not brought into effect in Scotland, and has fallen into disuse in England. The 1979 Act does not apply in Northern Ireland.

Note 2. Section 61(7) of the 1979 Act.

Note 3. Section 61(13) of the 1979 Act.

Note 4. Planning Advice Note 42, paras 44.3; 49 As a selective ('nationally important') sample of the nation's archaeology, the Schedule differs from the more comprehensive list of buildings of 'special architectural or historic interest' compiled under the terms of the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, both in the subject matter and in the procedures which arise from inclusion. While Historic Scotland

The protection and management of Scotland's scheduled monuments are carried out in partnership with individual owners in such a way as to minimise the effect on business.

undertakes casework on scheduled monuments, the first point of contact for listed building consent is the local authority.

Note 5. Section 1(3) of the 1979 Act.

Note 6. The new criteria and guidance were prepared during 2003–4 and subjected to public consultation:

Scottish Executive Consultation CON302
www.scotland.gov.uk/consultations/culture/natimport.pdf.

The report on the consultation is available at:
www.scotland.gov.uk/library5/culture/ncagfdni.pdf.

The criteria in force between 1983 and 2005 are published in the Scottish Executive's *Planning Advice Note 42 Archaeology, the Planning Process and Scheduled Monument Consent Procedures* (PAN 42). These are superseded by the publication here of the 2006 criteria and guidance. PAN 42 is available at:
www.scotland.gov.uk/library5/planning/pan42.pdf

Note 7. Section 2 of the 1979 Act.

Note 8. Information on the location and extent of scheduled monuments is provided on the internet at www.PASTMAP.org.uk, a website maintained by Historic Scotland and the Royal Commission on the Ancient and Historical Monuments of Scotland. The site also provides information on listed buildings, historic gardens and designed landscapes, and other undesignated sites.

Annex

Criteria for and Guidance on the Determination of ‘National Importance’ under the terms of the Ancient Monuments and Archaeological Areas Act 1979

Preamble

1. The Ancient Monuments and Archaeological Areas Act 1979 provides for the scheduling of ancient monuments, the sole criterion being that they are of national importance. A definition and operational guidance on how to determine whether or not a monument is of national importance was approved by the (former) Ancient Monuments Board for Scotland in 1983. The criteria and guidance offered here are an updated version that has taken account of the development of treaty, charter and practice in the UK and abroad and has been informed by the consultation exercise carried out in 2004. While based on the 1983 text, it also reflects the principles of Scotland’s *Stirling Charter* (2000), which has been informed by, and builds on, the body of international conservation charters already in being. One of the most influential of these is the *Burra*

Charter (current edn 1999), which introduced the now widely accepted concept of ‘cultural significance’. While taking into account national and international developments, this revised guidance has been prepared with the welfare of Scotland’s archaeological and built heritage in mind. The primary aim of this document is to provide guidance in determining whether monuments are unequivocally of national importance.

Role of Historic Scotland

2. The process of scheduling is undertaken on behalf of Scottish Ministers by Historic Scotland. Historic Scotland is an executive agency directly accountable to Scottish Ministers with the remit of protecting Scotland’s historic environment. The selection of monuments and the scheduling process is undertaken by professional staff within Historic Scotland applying the policies, criteria and guidance set by Scottish Ministers.

Cultural Significance

3. The first step in considering whether a monument is of national importance is to identify and understand its cultural significance. The concept of ‘cultural significance’ will apply widely and to different degrees to all of Scotland’s historic environment, and should not be confused with the establishment of ‘national importance’, which is a separate process. For a monument or a class of monuments to be considered as being of national importance it must, first, have a particular cultural significance – artistic; archaeological; architectural; historic; traditional (factors

Many of Scotland’s scheduled monuments are striking features in our landscape, like this ‘consumption dyke’ near Aberdeen. Without them the landscape would be less varied and interesting.



listed in the 1979 Act); aesthetic; scientific; social – for past, present or future generations. Such significance is inherent in the monument itself, its fabric, setting, use, associations, meanings, records, related monuments and related objects.

4. For most of Britain’s and Scotland’s past, there are no ‘national’ prehistories or histories, as reflected in the built heritage. Instead, there is an aggregation of related prehistories and histories of different regions, which may have wider national or international links. It is through these linked regional histories and prehistories that the history of Scotland and the UK can be understood.

5. Cultural significance of any monument, whether of national importance or more local significance, can be characterised by reference to one or more of the following; the characteristics are in three groups:

Intrinsic – those inherent in the monument;

Contextual – those relating to the monument’s place in the landscape or in the body of existing knowledge; and

Associative – more subjective assessments of the associations of the monument, including with current or past aesthetic preferences.

Intrinsic characteristics

a. the condition in which the monument has survived. ‘Condition’ includes the

potential survival of archaeological evidence above and below ground, and goes beyond the survival of marked field characteristics;

- b.** the archaeological, scientific, technological or other interest or research potential of the monument or any part of it;
- c.** the apparent developmental sequence of the monument. Monuments that show a sequence of development can provide insights of importance, as can places occupied for a short time;
- d.** the original or subsequent functions of the monument and its parts.

Contextual characteristics

- e.** The present rarity or representativeness of all or any part of the monument, assessed against knowledge of the archaeology of Scotland and of the region in which the monument occurs;
- f.** the relationship of the monument to other monuments of the same or related classes or period, or to features or monuments in the vicinity. This is particularly important where individual monuments, themselves perhaps of limited immediate significance, form an important part of a widespread but varied class. The diversity of the class should be a material consideration in making individual decisions;
- g.** the relationship of the monument and its parts with its wider landscape and setting.

Associative characteristics

- h.** The historical, cultural and social influences that have affected the form and fabric of the monument, and vice versa;
- i.** the aesthetic attributes of the monument;
- j.** its significance in the national consciousness or to people who use or have used the monument, or descendants of such people; and
- j.** the associations the monument has with historical, traditional or artistic characters or events.

6. Understanding of cultural significance may change as a result of the continuing history of the monument, or in the light of new information, or changing ideas and values.

National Importance

7. The primary purpose of scheduling under the 1979 Act is the preservation of, and control of works on, monuments, the survival of which is in the national interest. The provisions of the 1979 Act are consistent with the principles of minimal intervention to ensure that the characteristics that make a monument of national importance are preserved as far as possible in the state in which it has come down to us, and is passed on to future generations in as unchanged a state as is practicable, in accord with the principles of sustainable development. In general, those principles will only be set aside in circumstances where wider considerations are deemed, on balance, to be of greater importance to the national interest, rather than to any sectoral or local interest; in individual cases such considerations may include the needs of research into Scotland's past.

8. It should be noted that no period of Scotland's past and no part of Scotland's land is inherently more or less likely to produce monuments of 'national importance' than another.

9. The purpose and implications of scheduling are issues that require to be taken into consideration when assessing monuments for scheduling. Scheduling may not be the only, or the most appropriate, mechanism to secure the future of all sites, even those that may otherwise meet the criteria.

10. The particular significance needed to define the monument as of 'national' importance may be established in terms of one or more of the following:

- a. its inherent capability or potential to make a significant addition to the understanding or appreciation of the past;
- b. its retention of the structural, decorative or field characteristics of its kind to a marked degree;
- c. its contribution, or the contribution of its class, to today's landscape and/or the historic landscape;
- d. the quality and extent of any documentation or association that adds to the understanding of the monument or its context;
- e. the diminution of the potential of a particular class or classes of monument to contribute to an understanding of the past, should the monument be lost or damaged; and
- f. its place in the national consciousness is a factor that may be considered in support of other factors.

