



## Ensuring the care of Scotland's historic environment

### BEFS Briefing on the Historic Environment (Amendment) (Scotland) Bill – as introduced

Built Environment Forum Scotland (BEFS) is a forum that brings together 21 non-governmental organisations . both professional and voluntary . that operate within the built environment sector. Through its members, BEFS represents the interests of over 325,000 people, through 540 organisations.

- ✓ Members of BEFS **strongly endorse the provisions set out in the Bill**, which will go a significant way towards closing gaps and loopholes in the current legislative framework. Since the intention behind the Bill is to enhance the ability of central and local government in managing Scotland's irreplaceable historic environment, we ask, **in addition:**
- That the Bill will provide for a **responsibility on all public bodies to protect, enhance and have special regard to Scotland's historic environment in exercising their duties.**
- That the Bill will ensure that **local authorities have access, and give special regard, to appropriate information and expert advice on the local historic environment in exercising their duties.**

#### 1 Strong endorsement of the Bill provisions

The members of BEFS strongly endorse the provisions set out in this Bill, which will strengthen the ability to effectively and sustainably manage Scotland's historic environment. It will simplify processes without weakening controls and close some loopholes that presently allow unacceptable threats to the historic environment.

In particular BEFS welcomes provisions for the removal of the defence of ignorance, the wider definition of monument, the introduction of stop notices related to the historic environment, liability for urgent work costs and the new fixed penalty for breaches of listed building control.

#### 2 A responsibility on all public bodies to protect, enhance and have special regard to Scotland's historic environment in exercising their duties

This Bill presents an unmissable opportunity to secure a responsibility that would require all public bodies<sup>1</sup> to further the protection and enhancement of Scotland's historic environment. Such a provision would bring the management and protection of Scotland's unique and irreplaceable historic environment into the 21<sup>st</sup> century, matching general duties already in place for furthering the conservation of biodiversity, as introduced by the Nature

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<sup>1</sup> As defined in the Freedom of Information Act

Conservation (Scotland) Act 2004<sup>2</sup> and most recently to protect and enhance the health of Scotland's marine area<sup>3</sup> through the Marine (Scotland) Act 2010. The former Historic Environment Advisory Council for Scotland strongly recommended that a duty of care for the historic environment be introduced<sup>4</sup>.

We believe that this is necessary because:

- It would help ensure that public bodies uphold their responsibility to protect and sustainably manage our unique and irreplaceable historic environment.
- It would underpin the future care of Scotland's historic environment as an integral component in the wider management of resources.
- In particular, such provision would help ensure better assessment of the significance of historic assets (both those currently unrecognised or unprotected as well as those afforded statutory protection through scheduling, listing etc.), the impacts of change on them, and hence better identification of sustainable solutions for change in the built environment.
- It would assist the safeguarding of the historic environment for future generations and support the Government in securing sustainable places under the Greener strategic objective.

### **3 Local Authorities to have access, and give special regard, to appropriate information and expert advice on the local historic environment in exercising their duties**

The Bill should make provision for local authorities to have access, and give special regard, to information and expertise on the local historic environment. Several responses made by members of BEFS to the consultation on the draft Bill raised this as an issue<sup>5</sup>. Stakeholders are currently exploring what such a provision might look like; at this stage we believe that in principle this is necessary because:

- Understanding what is deemed significant or valuable about a historic environment asset is a necessary prerequisite to managing, protecting and enhancing the asset in question, since it informs decision-making processes. Having access to information and expertise on the local historic environment is therefore crucial.
- The majority of our historic environment is not protected by statutory designation, but is managed by expert advice through the planning process enacted at a local level.
- Understanding the wider context of our designated historic environment is vital, and informs decisions on what is nationally and locally important and worthy of designation, protection and sensitive management.
- It would ensure that local authorities at least maintain the current level of access to sources of information, advice and expertise on the local historic environment.

## **4 Summary**

**In summary, the Bill will provide an enhanced toolkit for much improved management of our historic environment. However, the addition of these two provisions would ensure a lasting legacy of which Scotland's people would be proud.**

This briefing has been prepared by the BEFS Historic Environment Bill Taskforce. For further information contact: Jo Robertson, Forum Co-ordinator, Built Environment Forum Scotland, 9 Manor Place, Edinburgh, EH3 7DN. 0131 220 6241, jrobertson@bef.s.org.uk.

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<sup>2</sup> [http://www.opsi.gov.uk/legislation/scotland/acts2004/asp\\_20040006\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/acts2004/asp_20040006_en_1)

<sup>3</sup> [http://www.opsi.gov.uk/legislation/scotland/acts2010/asp\\_20100005\\_en\\_2#pt2-l1g3](http://www.opsi.gov.uk/legislation/scotland/acts2010/asp_20100005_en_2#pt2-l1g3)

<sup>4</sup> <http://www.heacs.org.uk/documents/2006/conserv.pdf>

<sup>5</sup> <http://www.historic-scotland.gov.uk/historic-environment-bill-analysis-report.pdf>