SUBMISSION FROM THE HISTORIC HOUSES ASSOCIATION FOR SCOTLAND (HHAS)

1. The Historic Houses Association for Scotland (HHAS) represents 250 independently owned historic castles, mansion houses and gardens throughout Scotland, lived in and run by the families who own them. Of these, over 40 properties are open daily to the public during the season. Another 100 or so allow public access to interesting and memorable historic private homes on a less frequent or more informal basis. Indeed, the majority of Scotland’s historic environment is in independent ownership. The properties are situated in some of Scotland’s finest scenery and many have beautiful gardens. One of our properties is home to Europe’s only remaining private army and many others hold unique collections of art, porcelain and furniture.

2. HHAS is part of the UK wide Historic Houses Association, HHA, which works for a fiscal, political and economic climate in which private owners can maintain Britain's historic houses and gardens for the benefit of the nation and for future generations.

3. We draw on the practical knowledge and experience of our members, obtained through case studies and nationwide surveys, to inform our lobbying to government, at the European, national, regional and local level. But the contribution of historic houses extends much wider than this: they generate jobs and incomes in fragile rural economies; they are invigorating places for learning and understanding; and they provide places where people can come to share a common history and to escape the routine of their daily lives.

4. The HHA works in partnership with other heritage and conservation organisations to demonstrate the importance of heritage to the cultural, social and economic life of the nation - fundamental to people's health, happiness and quality of life.

5. The HHA believes that—

   - the conservation and understanding of heritage, and within that, privately owned heritage, is essential for a healthy and modern society and economy, and supports the public's understanding of their individual and common identity, our place in history and our vision for the future
   - the continued ownership and conservation of heritage in the private sector, in trust for the future, is the most cost effective way to deliver heritage benefits to the public as a whole
   - heritage should be embraced as a means to fulfil a number of Government objectives, on health, education, urban and rural regeneration and employment as well as culture and tourism
• we should acknowledge the "existence value" of heritage and recognise that it is irreplaceable - lost for ever once it is gone.

• public policies should enable owners and heritage managers to make this contribution. In particular, regulation for the protection of heritage should work with the grain of private ownership.

6. In Scotland we meet regularly with Historic Scotland and the National Trust for Scotland in the forum of the Historic Properties Group to discuss common concerns and ways we can co-operate and to plan joint ventures such as the Homecoming Pass and its successor, the Heritage Pass. We have for a long time worked in close association with Historic Scotland and look forward to strengthening our relationship with Ruth Parsons the Chief Executive.

7. Scotland’s castles and historic houses are a major reason for overseas tourists to visit our country. These historic houses, castles and gardens are the stewards of a rich cultural heritage, unmatched in Europe, in that only in the UK can so much of a country's art, furniture, textiles and ceramics be seen in the houses and surroundings for which they were intended. HHAS is proud and privileged to be able to take its part in attracting visitors through sustainable tourism, while at the same time, preserving these precious national treasures and their contents for generations to come.

**Articles potentially affecting HHA members**

8. It is considered that the following articles and provisions in the Bill may affect HHA members.


*Section 1 – Recovery of grants for repair, maintenance and upkeep of certain property and*

**Part 3: modifications of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997**

*Section 26 – Recovery of grants for preservation etc. of listed buildings and conservation areas*

9. The HHA is broadly in favour of the objective of these proposals. Some of the HHA's concerns can be addressed by ensuring clarity at the point of making the grant. We suggest that—

• conditional grants be restricted to those cases where conditionality is in the public interest (for example conditions as to maintenance); and

• the conditions be absolutely clearly stated at the outset; and

• the proportion recoverable be absolutely clear from the outset; and

• that there be a cut off point (whether a date, or another event such as on-sale) which is clear and can therefore be factored into any funding arrangements.
10. We suggest that in seeking to recover grants, care needs to be taken not to worsen the problem of buildings which have a negligible or negative value due to their condition. We would not favour making a buyer liable for grants made available to a previous owner as this would have the effect of inhibiting possible sales to restoring buyers. We suggest that—

- where a building in respect of which a grant has been made is sold for less than the amount of the grant, recovery should be limited to the amount of the net free proceeds of the sale. Mechanisms would have to be introduced to assess true market value to avoid sales at artificially low prices.
- where such a building has negligible or negative value we suggest that, in order to not to worsen the prospects of a sale, there should be no claw-back of grant. We believe that the public interest is better served by accepting reality than insisting in every case on recovery.
- where a condition is of a continuing nature (eg public access) and the buyer is willing to continue to comply we suggest that there should be no claw-back of grant since the purpose for which the grant was given continues to be served.

Part 2: modifications of the Ancient Monuments and Archaeological Areas Act 1979

Section 11 – Inventories of gardens and designed landscapes and of battlefields

Designed Landscapes and Gardens

11. The HHA is broadly in favour of consolidation of inventories of designed landscapes and gardens. However, we would appreciate understanding better what the purpose of the Inventories is. We have some concern that formalisation of inventories may lead to increased complication in Planning and Listed Building consent applications, and that further restrictions may be placed on the use of land which is the subject of these Inventories.

12. Once the process of compiling the Inventories is completed we feel that interested parties should be consulted so that agreement can be reached on—

- The value of the items in the Inventory, and
- Whether and if so to what extent, they merit protection, and
- What form such protection might take.

13. We would be concerned if inclusion in an inventory were to result in obligations to restore to, or to maintain in, their current or any specific state a designed landscape or garden. As long as this provision is applied with a degree of flexibility and common sense to reflect the fact that any garden or landscape, whether historic or otherwise, has always been subject to improvements and/or natural changes. It would be detrimental if any garden's current layout was set in stone by this Bill.
14. There is a concern that the proposed inventories for gardens and designed landscapes could involve interference with schemes for replanting or replacing various shrubs, trees, or other features from time to time. If so this could also lead to unnecessary delays in obtaining approval thereby causing a replanting programme perhaps having to be postponed to a subsequent planting season.

15. The HHA would like to be reassured that no further costs would accrue to the owners of a designed landscape and/or garden as a result of inclusion in an inventory.

**Battlefields**

16. The HHA believes that the creation of an inventory of battlefields is fraught with problems. In many cases there is no known physical evidence of the battle. In such circumstances we feel that an inventory, particularly if protective measures are attached to it, would cause unreasonable restriction on land use. Where there is known and significant archaeological or other evidence on the site then the HHA would have no issue with a measure of reasonable protection. As ever, we would wish to avoid the imposition of new administrative or maintenance burdens.

**Part 3: Modifications Of The Planning (Listed Buildings And Conservation Areas) (Scotland) Act 1997**

**Section 18 – Certificate that building not intended to be listed**

17. The HHA supports this proposal.

**Section 20 – Declining to determine an application for listed building consent**

18. The HHA believes that this proposal is a good thing for historic buildings as it will encourage a better standard of application. Accordingly the HHA supports this proposal.

**Section 25 – Liability of owner and successors for expenses of urgent works**

19. The HHA believes that the objective of improving recovery is laudable though problematic. We believe that the proposal will have the opposite effect from that desired.

- We suggest that where a building having an economic value is sold recovery should be made out of, and limited to, the net proceeds of sale. The open market value should be independently assessed in such cases.
- Where a building has a negligible or negative value (as independently assessed) we do not think it wise to impose the cost on a potential buyer since this will merely have the effect of discouraging potential buyers, thereby increasing the chance of ultimate disaster for the building. In such cases we believe that public interest is best served by treating the cost of emergency repair as an unavoidable public contribution to the securing of a viable future for the building.
- The weight of deterrence should be directed towards the neglecting owner, not the potential buyer. Thus, where a building sold has a
value the costs come out first. Where there is no value, the neglecting owner gets no benefit from selling.

Financial memorandum

20. The objective is laudable. HHA members are concerned that the process should not result in additional financial or administrative burdens being placed on them.

21. The HHA would like to stress that the imposition of further controls and/or financial or administrative burdens on them reduces the pool of resources available for maintenance and this is one of the most significant worries of our members. We therefore hope that during the process of streamlining existing legislation this will be kept firmly in mind.

22. The HHA hopes that any transfer of functions from HS to Local Authorities will be preceded by adequate resourcing of the relevant Local Authority departments.

23. The sale of properties with notices attached will become unnecessarily complex.

How helpful do you find the policy memorandum and financial memorandum accompanying the Bill?

24. Useful shorthand enabling us to grasp the issues with greater ease.

Do you have any comments on the consultation the Scottish Government carried out prior to the introduction of the Bill?

25. We were glad to be consulted and are ready to take part in any further discussions.

Sally Hampton
Co-ordinator
20 August 2010