1. The RTPI is the UK body chartered to represent the planning profession and offers these comments from the point of view of a diverse and politically-neutral professional body committed to supporting devolved government in Scotland. The Institute has approximately 2,100 members in Scotland, working across all sectors of central government, local government, government agencies, the voluntary sector, private consultancy, the development industry and education.

2. Since devolution, the Institute has empowered its RTPI in Scotland Office, together with its Scottish Executive Committee, with the responsibility for working with government and public bodies generally for the improvement of the planning system in Scotland. This is in accordance with its charter obligation to work for the public interest.

3. The Institute participates in the work of the Built Environment Forum Scotland (BEFS) and subscribed to the views contained in the BEFS letter of 19 August 2009 commenting to the Policy Team within Historic Scotland on the then draft Bill.

4. The Institute notes that the Historic Environment Advisory Council for Scotland (HEACS) suggested that there should be a major review of heritage legislation in Scotland. Clearly this Bill is not that but, within the limitations set by Government, the Institute offers the comments below. Paragraph numbers refer to the sections of the draft Bill.

Amendment of the Historic Buildings and Ancient Monuments Act 1953

5. Recovery of grants for repair, maintenance and upkeep of certain property
   Such a provision seems sensible.

Modifications of the Ancient Monuments and Archaeological Areas Act 1979

6. Control of works affecting scheduled monuments
   It is appropriate to introduce a similar provision to that for listed buildings, to be used only where it is in the best interests of the scheduled monument.

7. Offences under sections 2, 28 and 42: modification of defences
   Wider education, and access to information about the significance and extent, as well as the conservation management regime, of a scheduled monument, is to be encouraged.
Fines: increases and duty of court in determining amount
8. Increases will bring a level of consistency with other ‘environmental crimes’.

Powers of entry to inspect condition of scheduled monument
9. Such formal access is an essential part of the statutory planning regime, albeit rarely required.

Works affecting scheduled monuments: enforcement
10. Stop notice provision is a welcome introduction consistent with the general planning regime.

Control and management of monuments and land under guardianship
11. It is hoped that any such provision of facilities will be the subject of consultation and within an overall conservation management plan for the property.

Provision of facilities, etc. at ancient monuments
12. See paragraph 11.

Financial support for preservation etc. of monuments
13. Agreed.

Power of entry on land where monument at risk
14. Agreed

Inventories of gardens and designed landscapes and of battlefields
15. The settings of gardens, designed landscapes, and battlefields on the inventories should also be the subjects of consultation.

Development and understanding of matters of historic, etc. interest: grants and loans
16. Agreed

Regulations and orders under the 1979 Act
17. No comment.

Meaning of “monument” in the 1979 Act
18. We agree with this greater flexibility. We would also like such flexibility to be introduced into listed building legislation where, for example, listing should be extended to appropriate historic road or footpath surfaces which are currently largely unprotected.

Scheduled monument consent applications: regulations and refusal to entertain
19. Proposals consistent with the planning regime.
Refusal to entertain certain applications for scheduled monument consent
20. Proposals consistent with the planning regime.

Application for scheduled monument consent: inquiries and hearings
21. Proposals consistent with the planning regime.

Modifications of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Certificate that building not intended to be listed
22. The full cost of this assessment should be charged. Review of listing should be carried out ideally on a 5-yearly cycle (more realistically perhaps a 10-year one) so that local development plans (and indeed development management staff and developers) have current information: this would then be a similar cycle to the local development planning regime. Improved information, including on the qualitative aspects of more modern buildings, could also be anticipated.

Offences in relation to unauthorised works and listed building consent: increase in fines
23. Consistent with other 'environmental crimes', see above.

Declining to determine applications for listed building consent
24. Proposals consistent with the planning regime.

Hearings in connection with applications for listed building consent and appeals
25. Proposals consistent with the planning regime.

Enforcement notice: requirement to cease works
26. Proposals consistent with the planning regime.

Stop notices and temporary stop notices
27. Proposals consistent with the planning regime.

Non-compliance with listed building enforcement notice: fixed penalty notice
28. Proposals broadly consistent with the planning regime.

Liability of owner and successors for expenses of urgent works
29. While improved powers of recovery are welcome, a central government bridging loan or grant provision for planning authorities would be also be beneficial.

Recovery of grants for preservation etc. of listed buildings and conservation areas
30. No comment.
Crown application
31. No comment.

Regulations in connection with inquiries
32. Proposals consistent with the planning regime.

Regulations and orders under the 1997 Act
33. Proposals consistent with the planning regime.

Interpretation, ancillary provision, short title and commencement
34. No comments on paragraphs 30-32.

How helpful do you find the policy memorandum and financial memorandum accompanying the Bill?
35. These are helpful. The general thrust of changes could be said to bring the legislation more into line with planning legislation, and this is welcomed, with the caveat that the Institute is very concerned about the resources available, presently and in the future, for planning (including the historic environment), and will be responding accordingly to Scottish Government’s current consultation Resourcing a High Quality Planning System.

Do you have any comments on the consultation the Scottish Government carried out prior to the introduction of the Bill?
36. It is worth reiterating that the Institute participates in the work of BEFS and subscribed to the views contained in the BEFS letter of 19 August 2009 commenting to the Policy Team within Historic Scotland on the then draft bill.

Veronica Burbidge
National Director
20 August 2010