SUBMISSION FROM THE HIGHLAND COUNCIL

1. The general principles of the Historic Environment (Amendment) (Scotland) Bill are supported. It is considered appropriate that the legislation for the protection of the historic environment is reviewed and where appropriate updated.

2. The Bill, as presented, attempts to acknowledge the strengths of the existing legislation, identify weaknesses and strengthen where necessary. In principle these three aims are considered to represent an appropriate methodology for the review of historic environment legislation in Scotland. It is also considered a key strength of the legislative review that it is based on the strengths of existing legislation which has been largely effective through time.

3. Equally, the principle of retaining separate legislation for monuments and buildings is considered a significantly positive approach and ensures that the legislative changes contained in the Bill can be implemented within existing service resources and expertise at both local and national level.

4. The aim of ensuring that modernisation of historic environment protection is kept up to date and in line with the changes to the planning system ensures that the individual disciplines within the planning process can function cohesively in the future. This will be key to ensuring effective service delivery for local planning authorities and as such is considered a positive aim and principle of the proposed amendments.

5. It is not clear from the Bill how efficient new provisions are likely to be in reforming the legislation sufficiently to assist local authorities in taking appropriate action when there are breaches of control within the management process. For example the fixed penalty notice for failure to comply with a listed building enforcement notice. Whilst the principle behind the introduction of such new measures is fully supported a greater degree of clarity for the new provisions would have allowed for more in depth consideration of such proposals and the implications of their implementation for local planning authorities and Scottish Ministers.

6. It is disappointing that the Bill does not make greater provision for local planning authorities to take action against owners of buildings which are occupied and falling into disrepair. This is a difficult area to deal with in practice under the provisions of the current legislation.

7. The Bill will need to be supported by strong, effective national policy and guidance if it is to achieve its key aims and principles. Whilst it is recognised that there are proposed changes to the Scottish Historic Environment Policy to incorporate new legislation proposed by the Bill it is considered that further strengthening of national policy and the position and role of Historic Scotland on behalf of Scottish Ministers would increase the positive impact of the Bill in managing Scotland’s historic environment.
8. Whilst the decision not to embrace the English model of legislative reform for the historic environment is fully supported it is considered that it may be useful to adapt the strengths of the English system in delivering and implementing the legislation at national level.

9. The accompanying policy memorandum published to support the Bill is a useful document in ensuring that the provisions of the Bill are clear and transparent. The memorandum also provides information regarding the rationale behind the legislative changes proposed by the Bill. This is considered an important aspect of the process to ensure that there is transparent reasoning and justification for the introduction of changes to existing legislation. Overall, the memorandum is a useful resource in considering the principles and proposals presented by the Bill.

10. It is recognised and acknowledged that the current Bill was drafted following extensive consultation with relevant stakeholders, this approach to legislative amendment is welcomed and supported. The level of stakeholder involvement, engagement and consultation appears to have been appropriately extensive and commensurate to the review of national legislation.

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