

THE ARCHAEOLOGY FORUM

a grouping of independent bodies concerned with archaeology

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14 August 2009

Dear Sirs,

ANCIENT MONUMENTS AND LISTED BUILDINGS (AMENDMENT) (SCOTLAND) BILL CONSULTATION

The Archaeology Forum is a grouping of the key, non-governmental organisations concerned with archaeology in the UK. Its members include the Association of Local Government Archaeological Officers UK, the Council for British Archaeology, the Institute of Conservation, the Institute for Archaeologists, the National Trust, the National Trust for Scotland, Rescue, the Society of Antiquaries of London, the Society of Antiquaries of Scotland, the Federation of Archaeological Managers and Employers, and the Society of Museum Archaeologists UK.

The Forum is pleased to have the opportunity to contribute to this welcome consultation on revisions to aspects of the 1953 Historic Buildings and Ancient Monuments Act, the 1979 Ancient Monuments and Archaeological Areas Act and 1997 Planning (Listed Buildings and Conservation Areas)(Scotland) Act to improve the protection of designated historic assets in Scotland.

Several of the Forum's member organisations and other archaeological bodies have responded in detail to the consultation and the Forum particularly commends the responses from ALGAO Scotland, Archaeology Scotland, the Institute for Archaeologists and the Society of Antiquaries of Scotland. There is clearly unanimity across Scotland's archaeological community both in the welcome extended to these measures, and in

concern about the limitations of reform that have been possible within the scope of such tightly focused legislative amendments.

In addition to endorsing the specific comments made by individual Forum members, this response summarises the key issues that consultation on the legislative amendment raises for the Forum and its broader concern for achieving an appropriate level of heritage protection across the historic environment.

The Forum particularly welcomes

- ❑ the removal of the defence of ignorance (section 4.) and the emphasis that this places on the wide availability and accessibility of historic environment information in Historic Environment Records and in national historic environment information resources
- ❑ the new provisions for enforcement notices and stop notices (7., 21-24), bringing protection for designated monuments in line with listed buildings, and the new offence of disturbance in the control of works to scheduled monuments
- ❑ the revision to the meaning of monument to allow a more inclusive range of historic environment assets to be protected by designation (section 2.).

Aspects of particular concern to Forum Members include:

- ❑ Certificates of Immunity: this new provision will require adequate resources for assessment, new list review in many areas and provision to safeguard the historic interest of buildings that are not listable but still of local or archaeological significance;
- ❑ Interim protection for historic buildings and ancient monuments: vulnerable sites and buildings can be at risk of damage or destruction during the window between an application and formal designation. This could be introduced as an appropriate balance to the introduction of Certificates of Immunity, offering an equivalent degree of certainty in terms of statutory protection;
- ❑ Class Consent reform: Action to halt archaeological damage sustained through the agricultural Class Consent for scheduled monuments. Permitted agricultural activity on sensitive sites has long been recognised as destructive to archaeological preservation. Either reform of the Class Consent provisions is needed or a clear strategy for bringing the affected sites into favourable condition by means of management agreements.

More broadly, Forum members have all commented on several areas where strengthening of protection for the wider historic environment is still urgently needed. We understand the limitations on reforms that can be introduced through amendment of legislation primarily designed for statutorily designated sites and buildings. Forum members strongly advocate that the following high level provisions should be pursued by means of other policies and guidance, if not through the current Bill, to ensure there is:

- ❑ A statutory duty of care for the historic environment for public bodies equivalent to that afforded to the natural environment and in line with the Scottish Government's commitments on sustainable development, to reflect the statement in the revised SHEP that 'the sustainable management of the historic environment is an integral part of the wider management of resources';

- A statutory duty, or formal standard and guidance, for local authorities to maintain or have access to an Historic Environment Record and related historic environment services;
- Strengthened provision for designation of areas of archaeological and historic landscape significance;
- Removal of the Ecclesiastical Exemption to bring historic places of worship within the listed building management system.

The Respondent Information Form accompanies this letter.

Thank you for this opportunity for the Forum to make its comments. Please let me know if I can provide clarification or further information on any of the points covered here.

Yours faithfully,

Dr Gill Chitty
Council for British Archaeology
on behalf of The Archaeology Forum

The Archaeology Forum's members are:

*The Association of Local Government Archaeological Officers UK
The Council for British Archaeology
The Institute of Conservation
The Institute for Archaeologists
The National Trust
The National Trust for Scotland*

*Rescue: the British Archaeological Trust
The Society of Antiquaries of London
The Society of Antiquaries of Scotland
The Federation of Archaeological Managers and Employers
The Society of Museum Archaeologists UK*