

# **HISTORIC ENVIRONMENT (AMENDMENT) (SCOTLAND) ACT 2011**

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## **EXPLANATORY NOTES**

### **THE ACT – SECTION BY SECTION**

#### **Part 3 – Modifications of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997**

##### ***Section 23 – Stop notices and temporary stop notices***

##### **New section 41I – Temporary stop notices: compensation**

104. In new section 41I subsection (1) sets out who is entitled to compensation in respect of any loss or damage which can be directly attributed to the prohibition in the notice. Subsection (2) limits the entitlement to compensation to particular circumstances. These are that the works in the notice are authorised by listed building consent granted on or before the date the temporary stop notice is first displayed and/or the planning authority withdraws the notice other than following such grant of listed building consent. Subsection (3) applies subsections (5) to (9) of new section 41D to compensation under this section. Any question of disputed compensation will be referred to and determined by the Lands Tribunal.
105. Subsection (2) of section 23 amends section 66 of the 1997 Act, which relates to the control of works affecting unlisted buildings in conservation areas, to provide that sections 41A to 41I of that Act (as inserted by this Act) apply in relation to such buildings as they apply in relation to listed buildings. This ensures that stop notices and temporary stop notices will be available as enforcement tools in relation to unlisted buildings in conservation areas where subsection (3) of section 66 applies.
106. Subsection (3) of section 23 amends section 76 of the 1997 Act to give persons duly authorised by a planning authority rights of entry for certain purposes. The purposes are to enable such persons to ascertain whether a listed building enforcement notice, stop notice or temporary stop notice has been complied with, or whether any offence in relation to any building under new sections 41E or 41H of the 1997 Act has been committed. The subsection also confers rights of entry in connection with the display of certain notices under the Act.