

*These notes relate to the Historic Environment (Amendment) (Scotland)
Act 2011 (asp 3) which received Royal Assent on 23 February 2011*

HISTORIC ENVIRONMENT (AMENDMENT) (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 2 – Modifications of the Ancient Monuments and Archaeological Areas Act 1979

Section 6 – Works affecting scheduled monuments: enforcement

New section 9A – Power to issue scheduled monument enforcement notice

15. Subsection (1) allows Scottish Ministers to serve a scheduled monument enforcement notice in respect of unauthorised works carried out to a scheduled monument or to land in, on or under which there is a scheduled monument, or in respect of a breach of conditions in scheduled monument consent. This subsection also makes it clear that it is a matter of discretion for the Scottish Ministers to issue such an enforcement notice and that Scottish Ministers are required to have regard to the effects of the works on the character of the monument as one of national importance.
16. Subsections (2) and (3) require a scheduled monument enforcement notice to specify the works that are to cease and/or the steps that must be taken to either restore the monument or land to its former state, alleviate the effects of the unauthorised works or to bring the monument or land into a state fully compatible with the terms of the scheduled monument consent.
17. Subsection (4) sets out that in considering whether restoration would be undesirable, the Scottish Ministers must have regard to the desirability of preserving the national importance of the monument or its features of historical, architectural, traditional, artistic or archaeological interest.
18. Subsection (5) sets out that where further works are carried out under the terms of subsection (3)(b) scheduled monument consent is deemed to have been granted for such works.