

# HISTORIC ENVIRONMENT (AMENDMENT) (SCOTLAND) ACT 2011

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## EXPLANATORY NOTES

### THE ACT – SECTION BY SECTION

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

##### *Section 7 – Control and management of monuments and land under guardianship*

48. Subsection (2)(a) of section 7 inserts a new subsection (2A) into section 13 of the 1979 Act. This new subsection clarifies that the power conferred by section 13(2) of the 1979 Act includes power to control the holding of events; power to control and manage events; power to charge for events and the power to control public access to the monument in connection with such events. Section 7(2)(b) inserts a new subsection (8) in section 13 of the 1979 Act which clarifies that reference to “events” in the new inserted subsection (2A) includes functions and any other organised activity.
49. Subsection (3)(a) amends section 15 of the 1979 Act (acquisition and guardianship of land adjoining or in the vicinity of an ancient monument). This will ensure that the powers in paragraphs (a) and (b) of section 15(3) are exercisable without prejudice to the general power in that section to control and manage land associated with ancient monuments which is under guardianship.
50. Subsection (3)(b) inserts a new subsection (3A) into section 15 of the 1979 Act. This new subsection clarifies that the power conferred by section 15(3) of the 1979 Act includes power to control the holding of events; power to control and manage those events; power to charge for events and the power to control public access to the monument in connection with such events. Section 7(3)(d) inserts a new subsection (7) in section 15 of the 1979 Act which clarifies that reference to “events” in the new inserted subsection (3A) includes functions and any other organised activity.
51. Subsection (3)(c) inserts a new subsection (4A) in section 15 of the 1979 Act. This provides that the powers conferred by subsections (3), (3A) and (4) could not be used in relation to an event or type of event that was contrary to any express provision in the guardianship deed.
52. Subsection (4) of section 7 amends subsection (1) of section 19 of the 1979 Act to ensure that the right of public access to monuments under public control is subject to inserted sections 13(2A) and 15(3A) of the Act. This gives Scottish Ministers and local authorities the power to control public access to the monument in connection with the holding of the event or function.
53. **Section 7(5)** repeals paragraph 6(1) of Schedule 3 (transitional provisions) to the 1979 Act. This amendment makes clear that Scottish Ministers may manage properties taken into guardianship before 1979 and those taken into guardianship after the enactment of the 1979 Act in exactly the same way.