

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 9G – Stop notices

27. Inserted section 9G gives the Scottish Ministers power to issue a stop notice in relation to unauthorised works to a scheduled monument or to land in, on or under which the monument is situated, or to any part of the monument or land specified in the stop notice.
28. Subsections (1) and (2) set out the circumstances in which Scottish Ministers may issue a stop notice. Subsection (1) requires that the Scottish Ministers must consider it expedient for the works to cease before the expiry of the period for compliance with a scheduled monument enforcement notice. Subsections (2) and (4) provide the power to serve a stop notice prohibiting the execution of “relevant works” and make it clear that a stop notice may be served at the same time as or after a copy of the scheduled monument enforcement notice has been served but may not be served after the enforcement notice has taken effect.
29. Subsection (3) clarifies that “relevant works” means any works specified in the enforcement notice as works that the Scottish Ministers require to cease and associated works.
30. Subsection (5) sets out that a stop notice must specify the date that it is to come into effect. The date must not be earlier than 3 days (unless the Scottish Ministers consider there are special reasons for specifying an earlier date) after the date, nor later than 28 days after the date, when the notice is served.
31. Subsection (6) sets out that Scottish Ministers may serve the notice on any person who appears to them to have an interest in the monument or the land in, on or under which it is situated or who is executing, or causing to be executed, the relevant works specified in the enforcement notice.
32. Subsection (7) allows Scottish Ministers to withdraw a stop notice at any time by notice which must be served on all persons who were served with the original stop notice. It also sets out that the notice withdrawing the stop notice must be displayed for 7 days in place of all or any site notices publicising a stop notice.