

HISTORIC ENVIRONMENT (AMENDMENT) (SCOTLAND) ACT 2011

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

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

Section 24 – Non-compliance with listed building enforcement notice: fixed penalty notice

New section 39A – Fixed penalty notice where listed building enforcement notice not complied with

107. **Section 24** inserts new section 39A into the 1997 Act. This establishes powers for planning authorities to issue fixed penalty notices as an alternative to prosecution in cases where a person is in breach of a listed building enforcement notice provided the conditions set out in subsection (9) are met. The conditions in subsection (9) are that the fixed penalty notice must be issued within 6 months of the failure to comply with the listed building enforcement notice, and that a fixed penalty notice cannot be issued where a person has already been charged with an offence in respect of the breach of the listed building enforcement notice.
108. Subsections (6) and (7) set out that a person who receives a fixed penalty notice has 30 days to pay the penalty, and that the penalty is reduced by 25% if payment is made within 15 days.
109. Subsection (12) provides that any payment received by a planning authority in respect of a fixed penalty notice is retained by the authority.
110. Subsection (13) allows Scottish Ministers to prescribe in secondary legislation different levels of fine for different cases. This will also allow Ministers to set out in regulations an incremental scale of fines related to previous breaches of listed building enforcement notices relating to the same steps or works.