

# **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 6 – Works affecting scheduled monuments: enforcement***

##### **New section 9K – Temporary stop notices**

36. New sections 9K to 9N cover the operation of the new system of temporary stop notices. While a stop notice is always issued in relation to a scheduled monument enforcement notice, a temporary stop notice may be issued even if no enforcement notice is in place. In new section 9K (temporary stop notices) subsection (1) sets out the circumstances in which Scottish Ministers may issue temporary stop notices. The Scottish Ministers have to consider that the works are unauthorised or fail to comply with a condition attached to consent and to consider there is a reason for stopping the works immediately having regard to the effect of the works on the character of the monument as one of national importance.
37. Subsection (2) requires that the notice must be in writing and specify the works which are to stop, prohibit execution of the works and set out Scottish Ministers' reasons for issuing the notice.
38. Subsection (3) states that notice may be served on a person who either appears to be executing or causing to be executed works and/or a person who has an interest in the scheduled monument or the land in, on or under which the monument is situated.
39. Subsection (4) states that the Scottish Ministers must display a copy of the notice and a statement on the effect of section 9M (relating to offences) on the land in, on or under which the monument is situated or on the monument (except where doing so damages it).
40. Subsections (5) to (7) set out when the notice starts and ceases to have effect. It has effect for a period of 28 days beginning with the day it is displayed under subsection (4), although a shorter period may be specified in the notice. Subsection (8) provides that if the notice is withdrawn before 28 days (or any shorter period specified) the notice ceases to have effect at that point.