

HISTORIC ENVIRONMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Listed Buildings

Section 29 – Temporary stop notices

44D Temporary stop notices: compensation

197. Section 44D(1) to (3) sets out the compensation entitlement in respect of any loss or damage which can be directly attributed to the effect of a temporary stop notice. Compensation is only available in particular circumstances. It may be claimed if the works specified in a temporary stop notice do not contravene subsections (1) or (2) of section 9 of the 1990 Act (offences) because listed building consent is not required or has been granted on or before the date the notice is first displayed. It may also be claimed if the local planning authority withdraws the temporary stop notice other than following the grant of listed building consent authorising the works, because, for example, it is discovered that the works were not unauthorised and that the notice should not have been displayed.
198. Section 44D(4) specifies that no compensation will be payable for loss or damage that could have been avoided if the claimant had provided information required under the provisions mentioned in section 44D(5) or had otherwise cooperated with the local planning authority when responding to the temporary stop notice.
199. The provisions mentioned in section 44D(5) are section 16 of the Local Government (Miscellaneous Provisions) Act 1976, which gives local authorities powers to obtain details of persons who have an interest in land, and section 330 of the Town and Country Planning Act 1990, which allows the local planning authority or the Welsh Ministers to require information as to interests in land.
200. [Section 29\(2\)](#) applies section 31 of the 1990 Act, which makes provision about compensation payable in respect of the depreciation of the value of an interest in land, to the compensation payable under section 44D for loss and damage attributable to a temporary stop notice.
201. [Section 29\(3\)](#) amends section 82A(2) of the 1990 Act (Crown application) so that the provisions which deal with temporary stop notices bind the Crown, except those in section 44C which make it an offence to contravene a temporary stop notice.
202. [Section 29\(4\)](#) amends section 88 of the 1990 Act (rights of entry) to allow local planning authorities to authorise a person in writing to enter land for the purpose of displaying a temporary stop notice, ascertaining whether a notice has been complied with and considering a claim for compensation.
203. [Section 29\(5\)](#) gives the Valuation Office a right to enter land to survey or estimate its value in connection with a claim for compensation arising from the service of a temporary stop notice.

*These notes refer to the Historic Environment (Wales) Act
2016 (c.4) which received Royal Assent on 21 March 2016*

204. [Section 29\(6\)](#) amends section 88B of the 1990 Act by removing the requirement to give 24 hours' notice prior to the use of powers of entry to display a temporary stop notice or to ascertain compliance with a notice.
205. [Section 29\(7\)](#) amends Schedule 2 of the 1990 Act (lapse of building preservation notices) so that, on the lapse of a building preservation notice, any temporary stop notice which has been served on the building ceases to have effect.
206. [Section 29\(8\)](#) amends Schedule 4 of the 1990 Act (exercise of functions by different authorities). From time to time, the Welsh Ministers may require a local planning authority to submit for approval its proposed arrangements to obtain specialist advice in connection with the payment of compensation arising from the service of a temporary stop notice.