

HISTORIC ENVIRONMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1

Schedule A2 Decisions on reviews by person appointed by Welsh Ministers

252. Paragraph 1 of Schedule A2 allows the Welsh Ministers to make regulations setting out the classes of reviews on which decisions are to be made by a person appointed by the Welsh Ministers.
253. [Paragraph 2](#) sets out the powers and duties of an appointed person. The appointed person has the same powers and duties as the Welsh Ministers to carry out the review, to make a decision on the review and to decide on the procedures and conduct of the review and the costs associated with it.
254. A decision of an appointed person cannot be challenged except by way of section 55 of the 1979 Act (proceedings for questioning validity of certain orders). In addition, an application to the High Court under section 55 cannot be made on the grounds that the decision should have been made by the Welsh Ministers instead of the appointed person, unless the appointed person's power to make the decision was challenged before the decision on the review was taken.
255. [Paragraph 3](#) makes provisions for the Welsh Ministers to revoke an appointed person's authority and appoint another person to undertake the review.
256. [Paragraph 4](#) allows an appointed person to appoint an assessor to provide advice on any matters arising at a local inquiry or hearing, or in written representations made in connection with the review. Sub-paragraph (2) applies provisions of the Local Government Act 1972 which allow an appointed person to summon a person to attend and provide evidence at an inquiry. Refusal to attend will render a person liable, on summary conviction, to a fine not exceeding level 3 on the standard scale, imprisonment for a term not exceeding six months, or both.
257. [Paragraph 5](#) allows the Welsh Ministers to direct that anything that should have been done by the appointed person, with the exception of making a decision on a review, may be done instead by the Welsh Ministers. This enables the Welsh Ministers to direct that matters such as the notification of a review, the circulation of representations or evidence, and the notification of a decision are to be undertaken by them.
258. [Paragraph 6](#) allows an appointed person to delegate to another person anything that would fall to be done by the appointed person except for the conduct of a local inquiry or hearing or the making of a decision on the review. This enables the appointed person to delegate administrative tasks, such as the notification of a review application, the notification of hearing/inquiry timetables and details, and the circulation of statements and representations.
259. [Paragraph 7](#) provides that, where the Welsh Ministers appoint a member of staff of the Welsh Government to carry out their functions in relation to a review, those

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

functions are to be treated as functions of the Welsh Government for the purposes of the Public Services Ombudsman (Wales) Act 2005. This will enable the Public Services Ombudsman for Wales to investigate any allegations of maladministration made in relation to the appointed person's discharge of those functions.