



# Historic Environment (Wales) Act 2016

2016 anaw 4

## PART 3

### LISTED BUILDINGS

*Listing of buildings of special architectural or historic interest*

#### 24 Amendments relating to the listing of buildings

- (1) After section 2 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9) insert—

**“2A Duty to consult on certain changes to lists**

- (1) This section applies where the Welsh Ministers are proposing to—
- (a) include a building in a list compiled or approved under section 1; or
  - (b) exclude a building from such a list.
- (2) The Welsh Ministers must—
- (a) serve a notice of the proposed inclusion or exclusion on the appropriate persons; and
  - (b) invite those persons to submit written representations about the proposal.
- (3) The appropriate persons are—
- (a) the owner and occupier of the building;
  - (b) the local planning authority in whose area the building is situated; and
  - (c) such other persons or bodies of persons as appear to the Welsh Ministers appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.
- (4) A notice under subsection (2) must—
- (a) specify the proposed inclusion or exclusion;

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- (b) specify the period within which representations about the proposal may be made, which must be at least 28 days beginning with the date on which the notice is served; and
  - (c) in the case of a proposed inclusion—
    - (i) include a statement of the effect of section 2B; and
    - (ii) specify the date on which interim protection takes effect under subsection (2) of that section.
- (5) The Welsh Ministers may by regulations amend subsection (3) by adding a description of person to the list of appropriate persons in that subsection; and where the Welsh Ministers do so, they may also make such amendments to this Act as they consider appropriate in consequence of the amendment to subsection (3).

### **2B Interim protection pending certain listing decisions**

- (1) This section applies where the Welsh Ministers consult under section 2A on a proposal to include a building in a list compiled or approved under section 1.
- (2) The provisions of this Act (other than sections 47 to 51 and 59) and the principal Act have effect in relation to the building, from the beginning of the day specified in the notice for the purposes of section 2A(4)(c)(ii), as if the building were a listed building.
- (3) The protection conferred upon a building by virtue of subsection (2) is referred to in this Act as “interim protection”.
- (4) Interim protection conferred by virtue of subsection (2) ceases to have effect—
  - (a) where the Welsh Ministers include the building in a list compiled or approved under section 1, from the beginning of the day specified in the notice for the purposes of section 2D(2)(b); and
  - (b) where the Welsh Ministers decide not to include the building in such a list, from the beginning of the day specified in a notice issued to—
    - (i) the owner and occupier of the building; and
    - (ii) the local planning authority in whose area the building is situated.
- (5) The Welsh Ministers—
  - (a) must publish by electronic means a list containing particulars of each building in relation to which interim protection has effect; and
  - (b) must, on request, provide a copy of the notice served under section 2A(2) in respect of such a building.

### **2C Provisions applicable on lapse of interim protection**

Schedule 1A has effect as respects the lapse of interim protection.

### **2D Review of certain listing decisions**

- (1) This section applies where the Welsh Ministers include a building in a list compiled or approved under section 1.

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- (2) As soon as possible after amending the list to include the building, the Welsh Ministers must serve on the owner and occupier of the building a notice which—
    - (a) states that the Welsh Ministers have included the building in the list;
    - (b) specifies the date on which the Welsh Ministers did so (and on which interim protection under section 2B(2) ceased to have effect); and
    - (c) states that the owner or occupier may make an application to the Welsh Ministers requesting them to review their decision to do so.
  - (3) Where an owner or occupier of the building makes such an application, the Welsh Ministers must—
    - (a) carry out the review requested;
    - (b) make a decision on the review; and
    - (c) make such amendment to the list as they consider appropriate to give effect to that decision.
  - (4) Except as provided in sections 62 and 63, the validity of a decision of the Welsh Ministers on the review is not to be questioned in any legal proceedings.
  - (5) The Welsh Ministers must carry out a review under this section in such one or more of the following ways as appears to them to be appropriate—
    - (a) by means of a local inquiry;
    - (b) by means of a hearing;
    - (c) on the basis of written representations.
  - (6) The Welsh Ministers must by regulations make provision about—
    - (a) the grounds on which an application for a review under this section may be made;
    - (b) the form and manner in which such an application must be made;
    - (c) the information that must be provided to, or may be required by, the Welsh Ministers in connection with such an application; and
    - (d) the period within which such an application must be made.
  - (7) The Welsh Ministers may by regulations make further provision in connection with reviews under this section.
  - (8) Schedule 1B applies to reviews under this section.”
- (2) In section 9 of that Act (offences), after subsection (3) insert—
- “(3A) In proceedings for an offence under this section in relation to a building on which interim protection is conferred (which is, as a result of section 2B(2), treated as a listed building)—
- (a) it is a defence for the person to show that the person did not know, and could not reasonably have been expected to know, that interim protection had been conferred on the building; and
  - (b) where the defence is raised by a person on whom a notice should have been served under section 2A(2), it is for the prosecution to prove that the notice was served on that person.”
- (3) After section 28A of that Act insert—

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### “28B Compensation for loss or damage caused by interim protection

- (1) This section applies where interim protection in respect of a building ceases to have effect as a result of the issue of a notice by the Welsh Ministers under section 2B(4)(b).
- (2) Any person who, at the time when the interim protection took effect, had an interest in the building is, on making a claim to the Welsh Ministers within the prescribed time and in the prescribed manner, entitled to be paid compensation by the Welsh Ministers in respect of any loss or damage directly attributable to the effect of the protection.
- (3) The loss or damage in respect of which compensation is payable under subsection (2) includes a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the interim protection having effect.”
- (4) After Schedule 1 to that Act insert the Schedules 1A and 1B set out in Schedule 2 to this Act.

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#### Commencement Information

- I1** S. 24 in force at Royal Assent for specified purposes, see s. 41(1)(e)  
**I2** S. 24 in force at 31.5.2017 in so far as not already in force by S.I. 2017/633, art. 5(c) (with art. 6(2))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act repealed by [2023 asc 3 Sch. 13 para. 193](#)