



# Historic Environment (Wales) Act 2023

2023 asc 3

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# Historic Environment (Wales) Act 2023

An Act of Senedd Cymru to consolidate certain enactments relating to the conservation of the historic environment of Wales. [14 June 2023]

**Having been passed by Senedd Cymru and having received the assent of His Majesty, it is enacted as follows:**

## PART 1 OVERVIEW

### 1 Overview

- (1) This Act forms part of a code of law relating to the historic environment of Wales.
- (2) It consolidates enactments contained in or made under —
  - (a) the Historic Buildings and Ancient Monuments Act 1953 (c. 49);
  - (b) Parts 1 and 3 of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46);
  - (c) Parts 14 and 15 of the Town and Country Planning Act 1990 (c. 8);
  - (d) the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9);
  - (e) Part 5 of the Planning and Compulsory Purchase Act 2004 (c. 5);
  - (f) the Historic Environment (Wales) Act 2016 (anaw 4).
- (3) Part 2 of this Act makes provision about the conservation of monuments of special historic interest, including provision for —
  - (a) a schedule of monuments of national importance, maintained by the Welsh Ministers,
  - (b) the control of works affecting scheduled monuments, and
  - (c) the acquisition, guardianship and preservation of monuments.

- (4) Part 3 makes provision about the conservation of buildings of architectural or historic interest, including provision for –
  - (a) a list of buildings of special architectural or historic interest, maintained by the Welsh Ministers,
  - (b) the control of works affecting listed buildings, and
  - (c) the acquisition and preservation of buildings.
- (5) Part 4 makes provision about conservation areas, including provision for –
  - (a) areas of special architectural or historic interest to be designated as conservation areas by planning authorities,
  - (b) the control of works for the demolition of buildings in conservation areas, and
  - (c) the preservation and repair of buildings in conservation areas.
- (6) Part 5 makes supplementary provision relating to Parts 3 and 4, including –
  - (a) provision about proceedings before the Welsh Ministers under those Parts, including hearings and inquiries;
  - (b) provision about the validity and correction of decisions made under those Parts.
- (7) Part 6 provides for –
  - (a) a register of historic parks and gardens;
  - (b) a list of historic place names;
  - (c) historic environment records for every area of Wales.
- (8) Part 7 contains general provisions, including amendments and repeals of other enactments.

## **PART 2**

### **MONUMENTS OF SPECIAL HISTORIC INTEREST**

#### **CHAPTER 1**

##### **KEY TERMS**

## **2 Meaning of “monument” and “site of monument”**

- (1) In this Act “monument” means –
  - (a) any building, structure or work (whether above or below the surface of the land) and any cave or excavation;
  - (b) the site of the remains of any building, structure or work or of the remains of any cave or excavation;
  - (c) the site of any vehicle, vessel, aircraft or other moveable structure, or part of such an object, which neither constitutes nor forms part of any work which is a monument within paragraph (a);

- (d) the site of the remains of any object or part of an object mentioned in paragraph (c);
  - (e) the site of any thing, or group of things, that evidences previous human activity (other than a site falling within paragraph (b), (c) or (d)).
- (2) For the purposes of subsection (1) any machinery attached to a monument is to be treated as part of the monument if it could not be detached without being dismantled.
- (3) Subsection (1)(a) does not apply to any religious building for the time being used for religious purposes; but this is subject to any exceptions specified in regulations made by the Welsh Ministers.
- (4) Subsections (1)(c) and (d) do not apply to—
- (a) the site of any object or its remains unless the position of that object or its remains in that particular site is a matter of public interest;
  - (b) the site of any vessel or its remains which is protected by an order under section 1 of the Protection of Wrecks Act 1973 (c. 33) designating an area around the site as a restricted area.
- (5) For the purposes of this Act the site of a monument includes not only the land in, on or under which it is situated but also any land comprising or adjoining that land which appears to the Welsh Ministers or a local authority, in the exercise in relation to that monument of any of their or its functions under this Part, to be essential for the monument's support and preservation.
- (6) References in this Act to a monument include—
- (a) the site of the monument in question,
  - (b) a group of monuments, and
  - (c) any part of a monument or group of monuments.
- (7) References in this Act to the site of a monument—
- (a) are to the monument itself where it consists of a site, and
  - (b) in any other case include the monument itself.
- (8) In this section “remains” includes any trace or sign of the previous existence of the thing in question.

## CHAPTER 2

### SCHEDULE OF MONUMENTS OF NATIONAL IMPORTANCE

#### *Schedule of monuments*

### **3 Duty to maintain and publish schedule of monuments**

- (1) The Welsh Ministers must maintain a schedule of monuments in Wales which they consider to be of national importance, and must publish the up-to-date schedule.
- (2) An entry in the schedule for a monument must include a map maintained by the Welsh Ministers that identifies the area of the monument.
- (3) The Welsh Ministers may amend the schedule by—
- (a) adding a monument;



- (b) removing a monument;
  - (c) amending the entry for a monument (whether by removing anything previously included as part of the monument or adding anything not previously included, or otherwise).
- (4) The Welsh Ministers may not add to the schedule any building or structure occupied as a dwelling by any person other than the caretaker of the building or structure or a member of the caretaker's family.
- (5) An entry in the schedule recording the inclusion of a monument is a local land charge.
- (6) In this Part "the schedule" means the schedule maintained under this section.
- (7) In this Act "scheduled monument" means a monument included in the schedule.

#### **4 Notification of owner etc. where the schedule is amended**

- (1) Subsection (2) applies where the Welsh Ministers amend the schedule by –
- (a) adding a monument,
  - (b) removing a monument, or
  - (c) amending the entry for a monument.
- (2) As soon as possible after amending the schedule the Welsh Ministers must serve notice that they have done so on –
- (a) every owner and occupier of the monument, and
  - (b) every local authority in whose area the monument is situated.
- (3) Where the Welsh Ministers have added a monument to the schedule or amended the entry in the schedule for a monument –
- (a) the notice must specify the date on which they did so, and
  - (b) they must include with the notice a copy of the entry or amended entry for the monument in the schedule.

*Proposals to add or remove monument to or from the schedule: consultation and interim protection*

#### **5 Consultation before adding or removing monument to or from the schedule**

- (1) Subsection (2) applies where the Welsh Ministers are proposing to amend the schedule by –
- (a) adding a monument,
  - (b) removing a monument, or
  - (c) amending the entry for a monument to remove anything previously included as part of the monument or add anything not previously included.
- (2) The Welsh Ministers must serve a notice on the persons mentioned in subsection (3) which –
- (a) sets out the proposed amendment, and
  - (b) invites those persons to make written representations about the proposal.

- (3) The persons are—
  - (a) every owner and occupier of the monument,
  - (b) every local authority in whose area the monument is situated, and
  - (c) any other persons the Welsh Ministers consider appropriate as having special knowledge of, or special interest in, the monument or in monuments of historic or archaeological interest more generally.
- (4) A notice under subsection (2) must—
  - (a) specify the period within which representations may be made, and
  - (b) in the case of a proposal to add a monument or to add anything as part of a monument—
    - (i) include a statement of the effect of section 6 (interim protection), and
    - (ii) specify the date on which interim protection takes effect under that section.
- (5) The period specified under subsection (4)(a) must be at least 28 days beginning with the day the notice is served.

## **6 Interim protection pending decision on certain amendments relating to the schedule**

- (1) This section applies where the Welsh Ministers serve notice under section 5(2) of a proposal to amend the schedule by—
  - (a) adding a monument, or
  - (b) amending the entry for a monument by adding anything as part of the monument.
- (2) From the beginning of the day specified under section 5(4)(b)(ii) this Act has effect—
  - (a) in the case of a proposal to add a monument to the schedule, as if the monument were a scheduled monument;
  - (b) in the case of a proposal to amend the entry for a monument, as if the amendment were made.
- (3) The protection conferred by virtue of subsection (2) is referred to in this Part as “interim protection”.
- (4) The Welsh Ministers must—
  - (a) publish a list of the monuments subject to interim protection, and
  - (b) provide a copy of the notice served under section 5(2) in respect of such a monument to any person who requests one.

## **7 When interim protection ends**

- (1) Interim protection conferred by section 6(2)(a) (proposed addition of monument to the schedule) ends in relation to a monument—
  - (a) where the Welsh Ministers add the monument to the schedule, at the beginning of the day specified in the notice under section 4(2), or

- (b) where the Welsh Ministers decide not to add the monument to the schedule, at the beginning of the day specified in a notice served by them on the persons mentioned in subsection (3).
- (2) Interim protection conferred by section 6(2)(b) (proposed amendment of entry in the schedule relating to a monument) ends in relation to a monument –
  - (a) where the Welsh Ministers amend the entry in the schedule, at the beginning of the day specified in the notice under section 4(2), or
  - (b) where the Welsh Ministers decide not to amend the entry in the schedule, at the beginning of the day specified in a notice served by them on the persons mentioned in subsection (3).
- (3) The persons referred to in subsections (1)(b) and (2)(b) are –
  - (a) every owner and occupier of the monument, and
  - (b) every local authority in whose area the monument is situated.
- (4) Schedule 1 makes provision about the effect of interim protection coming to an end under subsections (1)(b) and (2)(b).

## **8 Compensation for loss or damage caused by interim protection**

- (1) This section applies where interim protection ends in relation to a monument because of a notice under section 7(1)(b) or (2)(b).
- (2) Any person who had an interest in the monument when the interim protection took effect is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any loss or damage suffered by the person that is directly attributable to the interim protection.
- (3) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by the need to stop or cancel works to the monument because of the interim protection.
- (4) A claim for compensation under this section must be made in writing within 6 months beginning when the interim protection ends.

*Review of decisions to amend schedule to add monuments etc.*

## **9 Review of decision to add monument to the schedule etc.**

- (1) Where the Welsh Ministers –
  - (a) add a monument to the schedule, or
  - (b) amend the entry in the schedule for a monument to add anything as part of the monument,the notice under section 4(2) must state that any owner or occupier of the monument may make an application to the Welsh Ministers requesting a review of the decision.
- (2) An application may be made only on the ground that the monument or part (as the case may be) is not of national importance.

- (3) Where an owner or occupier makes an application for a review, the Welsh Ministers must appoint a person to—
  - (a) carry out the review, and
  - (b) make a decision on the review.
- (4) The Welsh Ministers may by regulations specify descriptions of cases in which they, instead of a person appointed by them, must carry out and make a decision on a review.
- (5) The Welsh Ministers must make any amendment to the schedule they consider appropriate to give effect to the decision on a review.
- (6) The Welsh Ministers may by regulations amend subsection (2) to—
  - (a) add a ground of review;
  - (b) modify a ground of review;
  - (c) remove a ground of review.

## **10 Supplementary provision about reviews**

- (1) The Welsh Ministers must by regulations make provision about—
  - (a) the form and way in which an application under section 9 must be made;
  - (b) the information that must be provided to, or may be required by, the Welsh Ministers in connection with an application;
  - (c) the period within which an application must be made.
- (2) A review under section 9 must be carried out in one or more of the following ways (as determined by the person carrying out the review)—
  - (a) by means of a local inquiry;
  - (b) by means of a hearing;
  - (c) on the basis of written representations.
- (3) The Welsh Ministers may by regulations make further provision in connection with reviews under section 9.
- (4) Regulations under subsection (1) or (3) may authorise the Welsh Ministers or persons appointed under section 9(3)—
  - (a) to determine matters of a description specified in the regulations, and
  - (b) to give directions in relation to those matters.
- (5) Schedules 2 and 6 make further provision about reviews under section 9.

## **CHAPTER 3**

### **CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS**

#### *Authorisation of works*

## **11 Requirement for works to be authorised**

- (1) A person must not carry out works to which this section applies, or cause or permit such works to be carried out, unless the works are authorised under this Chapter.

- (2) This section applies to—
- (a) works resulting in the demolition or destruction of, or any damage to, a scheduled monument;
  - (b) works for the purpose of removing or repairing a scheduled monument or any part of it, or of making any alterations or additions to the monument or any part of it;
  - (c) flooding or tipping operations on land in, on or under which a scheduled monument is situated.

## **12 Authorisation of classes of works**

- (1) Works to which section 11 applies are authorised if the works are within a class of works described in the table in Schedule 3.
- (2) An authorisation under subsection (1) is subject to any exceptions or conditions specified in the table in relation to works of a particular class.
- (3) The Welsh Ministers may direct that subsection (1) does not apply to any scheduled monument specified in the direction.
- (4) A direction under subsection (3) does not take effect until notice of it has been served on every owner and occupier of the monument in question.
- (5) Subsection (1) does not authorise works contrary to any exception or condition attached to a scheduled monument consent.
- (6) An authorisation under subsection (1) has effect for the benefit of the monument and of all persons for the time being interested in the monument; but this is subject to any provision to the contrary in Schedule 3.

## **13 Authorisation of works by scheduled monument consent**

- (1) Works to which section 11 applies are authorised if—
- (a) written consent to carry them out has been granted by the Welsh Ministers, and
  - (b) the works are carried out in accordance with the terms of the consent (including any conditions attached to it).
- (2) Where—
- (a) works to which section 11 applies have been carried out without being authorised under this Chapter, and
  - (b) the Welsh Ministers grant written consent for the works,
- the works are authorised from the grant of the consent.
- (3) Consent under subsection (1) or (2) is referred to in this Part as scheduled monument consent.

### *Applications for scheduled monument consent*

## **14 Applying for scheduled monument consent**

- (1) An application for scheduled monument consent must be made to the Welsh Ministers.
- (2) An application must—

- (a) identify the area of land to which it relates,
  - (b) describe the works to which it relates and the likely impact of the works on the monument, and
  - (c) contain any other information required by the Welsh Ministers.
- (3) The Welsh Ministers may by regulations make provision about –
- (a) the form and content of an application (which may include provision for using a form to be published or provided by the Welsh Ministers);
  - (b) how an application must be made;
  - (c) documents or other materials that must be included with an application.
- (4) The Welsh Ministers may agree with an applicant that an application may be made otherwise than in accordance with subsection (2) or any provision made under subsection (3), if the application relates to works to which subsection (5) applies.
- (5) This subsection applies to minor works carried out for the purpose of –
- (a) removing or repairing a scheduled monument or any part of it, or
  - (b) making any alterations or additions to the monument.
- (6) The Welsh Ministers may by regulations specify additional cases in which an application for scheduled monument consent may be made otherwise than in accordance with subsection (2) or any provision made under subsection (3); and the regulations may confer a discretion on the Welsh Ministers.

## 15 **Declarations of ownership in respect of monument**

- (1) The Welsh Ministers may refuse to consider an application for scheduled monument consent unless one of the following declarations signed by or on behalf of the applicant is included with the application –
- (a) a declaration that, at the beginning of the 21 days ending with the day of the application, no person other than the applicant was the owner of the monument,
  - (b) a declaration that the applicant has given notice to all the persons (other than the applicant) who, at the beginning of that period, were owners of the monument, of the things required by subsection (2) and any regulations under subsection (3),
  - (c) a declaration that the applicant –
    - (i) is unable to make a declaration under paragraph (a) or (b),
    - (ii) has given notice to such of the persons mentioned in paragraph (b) as are named in the declaration, of the things required by subsection (2) and any regulations under subsection (3), but
    - (iii) has been unable to find out the names and addresses of the rest of those persons, despite taking all reasonable steps to do so, or
  - (d) a declaration that the applicant –
    - (i) is unable to make a declaration under paragraph (a), and

- (ii) has, despite taking all reasonable steps to do so, been unable to find out the names and addresses of any of the persons mentioned in paragraph (b).
- (2) A notice for the purposes of subsection (1)(b) or (c)(ii) must—
  - (a) identify the monument to which it relates (including the address or location of the monument, and its name (if any)),
  - (b) state that an application for scheduled monument consent is to be made in relation to the monument,
  - (c) identify the person making the application (and, where the applicant is making an application on someone’s behalf, identify the other person), and
  - (d) describe the works to which the application relates.
- (3) The Welsh Ministers may by regulations specify additional things which must be included in a notice.
- (4) It is an offence for a person in purported compliance with this section—
  - (a) to make a declaration which the person knows to be false or misleading in a material respect, or
  - (b) to recklessly make a declaration which is false or misleading in a material respect.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) In this section “owner” means—
  - (a) an owner of the freehold estate, or
  - (b) a tenant under a lease granted or extended for a fixed term that has at least 7 years left to run.

## **16 Power to refuse to consider similar applications**

- (1) The Welsh Ministers may refuse to consider an application for scheduled monument consent if—
  - (a) in the 2 years ending with the day the application is received, the Welsh Ministers have refused a similar application, and
  - (b) they consider that there has been no significant change in any relevant considerations since the similar application was refused.
- (2) The Welsh Ministers may refuse to consider an application for scheduled monument consent if the application is made at a time when a similar application is under consideration.
- (3) For the purposes of this section an application is similar to another application if (and only if) the Welsh Ministers consider that the works to which the applications relate are the same or substantially the same.

### *Determining applications for scheduled monument consent*

## **17 Procedure for determining applications and effect of grant of consent**

- (1) The Welsh Ministers may grant scheduled monument consent in respect of all or any part of the works to which an application relates.

- (2) Before determining whether to grant scheduled monument consent on an application, the Welsh Ministers may do one or more of the following –
  - (a) cause a local inquiry to be held,
  - (b) give the applicant, and any other person, an opportunity to appear before and be heard by a person appointed by the Welsh Ministers, or
  - (c) give the applicant, and any other person, an opportunity to make written representations to a person appointed by the Welsh Ministers.
- (3) Before determining whether to grant scheduled monument consent on an application, the Welsh Ministers must –
  - (a) in every case, consider any representations made by any person with respect to that application, and
  - (b) if an inquiry or hearing has been held or representations have been made in accordance with subsection (2)(c), consider the report of the person who held the inquiry or hearing or to whom the representations were made.
- (4) The Welsh Ministers must serve notice of their decision with respect to the application on the applicant and on every person who has made representations with respect to the application.
- (5) Scheduled monument consent has effect for the benefit of the monument and of all persons for the time being interested in the monument; but this is subject to the terms of the consent.
- (6) Schedule 6 applies in relation to proceedings held under subsection (2).

*Grant of scheduled monument consent subject to conditions*

**18 Power to grant consent subject to conditions**

- (1) Scheduled monument consent may be granted subject to conditions.
- (2) A condition may, for example –
  - (a) impose requirements with respect to the way in which or the persons by whom the works or any of the works are to be carried out;
  - (b) require that a person authorised by the Welsh Ministers be given an opportunity, before any works start, to examine the monument and its site and to carry out such excavations as the Welsh Ministers consider to be desirable for the purpose of archaeological investigation.

**19 Condition about period within which works must start**

- (1) Scheduled monument consent must be granted subject to the condition that the works to which it relates must start before the end of a period which is specified in the condition and begins with the day the consent is granted.
- (2) If consent is granted without the condition required by subsection (1), it is to be treated as having been granted subject to the condition that the works to which it relates must start within 5 years beginning with the day it was granted.
- (3) This section does not apply to –



- (a) scheduled monument consent which provides that it ceases to have effect at the end of a period specified in the consent (irrespective of whether any works have started),
- (b) consent granted under section 13(2) (consent for works already carried out), or
- (c) consent granted by a scheduled monument partnership agreement or a management agreement (see sections 25 and 51).

*Modification and revocation of scheduled monument consent*

**20 Modification and revocation of consent**

- (1) The Welsh Ministers may by order modify or revoke a scheduled monument consent to any extent.
- (2) An order under this section may not be made in relation to—
  - (a) scheduled monument consent granted under section 13(2) (consent for works already carried out), or
  - (b) consent granted by a scheduled monument partnership agreement (see Chapter 4).
- (3) Schedules 4 and 6 make provision in connection with orders under this section.

*Compensation*

**21 Compensation for refusal of scheduled monument consent or grant of consent subject to conditions**

- (1) This section applies where—
  - (a) an application for scheduled monument consent for works of a description mentioned in subsection (3) is refused, or
  - (b) an application for scheduled monument consent for works of such a description is granted subject to conditions.
- (2) Any person who has an interest in the monument in question is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any expenditure incurred or other loss or damage suffered by the person that is directly attributable to the effect of the decision on the application; but this is subject to the following provisions of this section.
- (3) The works in respect of which compensation is payable under this section are—
  - (a) works which are reasonably necessary for carrying out any development for which planning permission—
    - (i) had been granted (otherwise than by a general development order) before the monument in question became a scheduled monument, and
    - (ii) was still effective when the application for scheduled monument consent was made,
  - (b) works constituting development for which planning permission is granted by a general development order,

- (c) works which do not constitute development, and
  - (d) works which are reasonably necessary for the continuation of a use of the monument for a purpose for which it was in use immediately before the date of the application for scheduled monument consent (but ignoring any use in breach of any legal restrictions applying to the use of the monument).
- (4) The compensation payable under this section in respect of works within subsection (3)(a) is limited to compensation for expenditure incurred or other loss or damage suffered by virtue of the fact that, in consequence of the Welsh Ministers' decision, development for which the planning permission in question was granted could not be carried out without breaching section 11 (requirement for works to be authorised).
- (5) A person is not entitled to compensation under this section in respect of any works within subsection (3)(b) or (c) if the works in question or any of them would or might result in the total or partial demolition or destruction of the monument.
- (6) Where scheduled monument consent is granted subject to conditions, a person is not entitled to compensation under this section in respect of any works within subsection (3)(d) unless compliance with those conditions would in effect make it impossible to use the monument for the purpose for which it was in use before the date of the application.
- (7) In assessing any compensation payable under this section for loss or damage consisting of depreciation of the value of an interest in land –
- (a) it is to be assumed that any subsequent application for scheduled monument consent for works of a similar description would be determined in the same way, but
  - (b) in the case of a refusal of scheduled monument consent, if the Welsh Ministers, on refusing that consent, undertook to grant consent for other works affecting the monument in the event of an application being made, regard must be had to that undertaking.
- (8) A claim for compensation under this section must be made in writing within 6 months beginning with the day of –
- (a) the notice of refusal of scheduled monument consent, or
  - (b) the grant of scheduled monument consent.
- (9) In this section “general development order” means a development order under section 59 of the Town and Country Planning Act 1990 (c. 8) that applies to all land in Wales (subject to any exceptions specified in the order).

## **22 Recovery of compensation paid under section 21 on subsequent grant of consent**

- (1) This section applies where –
- (a) in a case where compensation under section 21 was paid in consequence of the refusal of scheduled monument consent, the Welsh Ministers subsequently grant scheduled monument consent for all or any of the works in respect of which the compensation was paid, and

- (b) in a case where compensation under that section was paid in consequence of the grant of scheduled monument consent subject to conditions, the Welsh Ministers subsequently –
  - (i) modify the consent so that the conditions, or any of them, no longer apply to all or any of the works in respect of which the compensation was paid, or
  - (ii) grant a new consent for all or any of those works free from those conditions, or any of them.
- (2) This section does not apply in any case unless the Welsh Ministers have served notice of the payment of compensation on the council of every county or county borough in which the monument is situated.
- (3) In granting or modifying a scheduled monument consent in a case to which this section applies, the Welsh Ministers may do so on terms that no works in respect of which the compensation was paid are to be carried out under the consent until the recoverable amount has been repaid to the Welsh Ministers or secured to their satisfaction.
- (4) In subsection (3) “recoverable amount” has the meaning given by section 23.
- (5) A notice under subsection (2) must specify –
  - (a) the decision which gave rise to the entitlement to compensation,
  - (b) the monument affected by the decision, and
  - (c) the amount of the compensation.
- (6) A notice under subsection (2) is a local land charge, and for the purposes of the Local Land Charges Act 1975 (c. 76) the council served with a notice under that subsection is to be treated as the originating authority as respects the charge.

### **23 Determination of amount recoverable under section 22**

- (1) The “recoverable amount” for the purposes of section 22 means an amount specified by the Welsh Ministers in giving notice of their decision on the application for scheduled monument consent or in the order modifying the consent (as the case may be); but this is subject to subsection (3).
- (2) Where a person who has an interest in a monument objects to the amount specified by the Welsh Ministers, the person may require the determination of the amount to be referred to the Upper Tribunal.
- (3) Where a reference is made to the Upper Tribunal under subsection (2) the recoverable amount is the amount the Tribunal determines.
- (4) The amount specified or determined as the recoverable amount under this section may be an amount representing all or any part of the compensation paid under section 21.

### **24 Compensation where works affecting a scheduled monument cease to be authorised**

- (1) This section applies where works affecting a scheduled monument which were previously authorised under this Chapter cease to be authorised –

- (a) because an authorisation under section 12 ceases to apply (whether because of an amendment to the table in Schedule 3 or a direction given under subsection (3) of that section),
  - (b) because of the modification or revocation of a scheduled monument consent by an order made under section 20, or
  - (c) in accordance with paragraph 2 of Schedule 4, because of the service of a notice of proposed modification or revocation of a scheduled monument consent under paragraph 1 of that Schedule.
- (2) Any person who has an interest in the monument is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for –
- (a) any expenditure incurred by the person in carrying out works which become abortive because further works cease to be authorised, or
  - (b) any other loss or damage suffered by the person which is directly attributable to that fact.
- (3) A person is not entitled to compensation under this section in a case within subsection (1)(a) unless, on an application for scheduled monument consent for the works in question, consent is refused, or is granted subject to conditions other than those which previously applied by virtue of section 12.
- (4) For the purposes of this section expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works.
- (5) Subject to that, no compensation is payable under this section in respect of –
- (a) works carried out before an authorisation under section 12 applied in relation to the works or before the scheduled monument consent in question was granted (as the case may be), or
  - (b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before that authorisation applied or that consent was granted.
- (6) A claim for compensation under this section must be made in writing within 6 months beginning with the day the works cease to be authorised.

#### CHAPTER 4

#### SCHEDULED MONUMENT PARTNERSHIP AGREEMENTS

#### 25 Scheduled monument partnership agreements

- (1) The Welsh Ministers may make an agreement under this section (a “scheduled monument partnership agreement”) with –
- (a) any owner of a scheduled monument, or
  - (b) any owner of land adjoining or in the vicinity of such a monument (“associated land”).

- (2) Any of the following persons may also be a party to the agreement (in addition to the owner and the Welsh Ministers) –
  - (a) any occupier of the monument or its associated land;
  - (b) any other person who has an interest in the monument or its associated land;
  - (c) any person involved in the management of the monument or its associated land;
  - (d) any local authority in whose area the monument or its associated land is situated;
  - (e) any local authority which, by virtue of Chapter 6, is a guardian of the monument or its associated land;
  - (f) any other person the Welsh Ministers consider appropriate as having special knowledge of, or special interest in, the monument or in monuments of historic or archaeological interest more generally.
- (3) A scheduled monument partnership agreement may grant scheduled monument consent under section 13(1) for specified works for the purpose of –
  - (a) removing or repairing the monument to which the agreement relates, or
  - (b) making any alterations or additions to the monument.
- (4) Where a scheduled monument partnership agreement grants scheduled monument consent subject to conditions, the agreement must specify those conditions.
- (5) A scheduled monument partnership agreement may also –
  - (a) specify works that would, or would not, in the view of the parties, be works to which section 11 applies;
  - (b) make provision about the maintenance and preservation of the monument or its associated land;
  - (c) make provision about the carrying out of specified works, or the doing of any specified thing, in relation to the monument or its associated land;
  - (d) provide for public access to the monument or its associated land and the provision of associated facilities, information or services to the public;
  - (e) restrict access to, or use of, the monument or its associated land;
  - (f) prohibit the doing of any specified thing in relation to the monument or its associated land;
  - (g) provide for the Welsh Ministers, or any local authority in whose area the monument or its associated land is situated, to make payments of specified amounts and on specified terms –
    - (i) for or towards the cost of any works provided for under the agreement, or
    - (ii) in consideration of any restriction, prohibition or obligation accepted by any other party to the agreement.
- (6) A scheduled monument partnership agreement may relate to more than one monument or more than one piece of associated land.

- (7) In this section “specified” means specified or described in a scheduled monument partnership agreement.

**26 Further provision about scheduled monument partnership agreements**

- (1) A scheduled monument partnership agreement must be in writing.
- (2) A scheduled monument partnership agreement must –
- (a) identify the monument or associated land to which it relates;
  - (b) describe any works to which it relates;
  - (c) specify the date on which it takes effect and its duration;
  - (d) make provision for the parties to review the terms of the agreement at intervals specified in it;
  - (e) make provision for its variation (but this is subject to regulations made under subsection (5));
  - (f) make provision for its termination (but this is subject to section 27).
- (3) A scheduled monument partnership agreement may contain incidental and consequential provision.
- (4) The Welsh Ministers may by regulations specify other terms that must be included in a scheduled monument partnership agreement.
- (5) The Welsh Ministers must by regulations make provision about –
- (a) the consultation that must take place before a scheduled monument partnership agreement is made or varied;
  - (b) the publicity that must be given to a scheduled monument partnership agreement before or after it is made or varied.
- (6) Regulations under subsection (5)(a) must require the Welsh Ministers to consult the following persons before making a scheduled monument partnership agreement –
- (a) every owner and occupier of the monument or associated land to which the proposed agreement relates;
  - (b) every local authority in whose area the monument or associated land is situated;
  - (c) any local authority which by virtue of Chapter 6 is a guardian of the monument or associated land.
- (7) A scheduled monument partnership agreement may not impose any obligation or liability, or confer any right, on a person who is not a party to the agreement; and scheduled monument consent granted by such an agreement has effect only for the benefit of the parties to it.
- (8) The Welsh Ministers may by regulations disapply, apply or reproduce with or without modifications, any provision of this Part for the purposes of scheduled monument partnership agreements.

**27 Termination of agreement or provision of agreement**

- (1) The Welsh Ministers may by order terminate a scheduled monument partnership agreement or any provision of such an agreement.
- (2) An order under subsection (1) may contain supplementary, incidental, transitory, transitional or saving provision.
- (3) An order under this section terminating a provision which grants scheduled monument consent for any works may be made at any time before the works are completed, but does not affect scheduled monument consent for works carried out before the order takes effect.
- (4) Schedule 5 and paragraph 1 of Schedule 6 make further provision in connection with making orders under this section (including provision for notices of proposed termination).
- (5) The Welsh Ministers may by regulations amend Schedule 5 or 6, and the regulations may make consequential amendments to any other provision of this Act.

**28 Compensation in relation to termination**

- (1) This section applies where the Welsh Ministers –
  - (a) serve a notice of proposed termination, or
  - (b) make an order under section 27,in relation to a scheduled monument partnership agreement.
- (2) Any party to the agreement who has an interest in the monument or land to which the agreement applies is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for –
  - (a) any expenditure incurred by the party in carrying out works which become abortive because of the notice or order;
  - (b) any other loss or damage suffered by the party which is directly attributable to the notice or order.
- (3) For the purposes of this section expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works.
- (4) Subject to that, no compensation is payable under this section in respect of –
  - (a) works carried out before the scheduled monument partnership agreement, or the relevant provision of the agreement, took effect, or
  - (b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the agreement or provision took effect.
- (5) A claim for compensation under this section must be made in writing within 6 months beginning with the day the notice of proposed termination or order takes effect (as the case may be).

**29 Interpretation**

In this Chapter –

“associated land” (*“tir cysylltiedig”*), in relation to a monument, has the meaning given by section 25(1)(b);

“notice of proposed termination” (*“hysbysiad o derfyniad arfaethedig”*) has the meaning given by paragraph 1 of Schedule 5;

“owner” (*“perchennog”*) means –

- (a) an owner of the freehold estate, or
- (b) a tenant under a lease granted or extended for a fixed term that has at least 7 years left to run;

“scheduled monument partnership agreement” (*“cytundeb partneriaeth heneb gofrestredig”*) has the meaning given by section 25(1).

**CHAPTER 5****ENFORCEMENT OF CONTROLS RELATING TO SCHEDULED MONUMENTS***Offences relating to unauthorised works***30 Offence of carrying out unauthorised works or breaching condition of consent**

- (1) A person commits an offence if the person carries out, or causes or permits to be carried out, works in relation to a scheduled monument in breach of section 11 (requirement for works to be authorised).
- (2) A person also commits an offence if the person –
  - (a) carries out, or causes or permits to be carried out, works in relation to a scheduled monument, and
  - (b) fails to comply with a condition subject to which scheduled monument consent has been granted for the works.
- (3) Subsection (2) does not limit what may be an offence under subsection (1).
- (4) In proceedings against a person for an offence under subsection (1) in relation to a monument on which interim protection is conferred –
  - (a) it is a defence for the person to prove that the person did not know, and could not reasonably have been expected to know, that the interim protection had been conferred, and
  - (b) where the defence is raised by a person on whom a notice should have been served under section 5(2), it is for the prosecution to prove that the notice was served on the person.
- (5) In proceedings against a person for an offence under subsection (2), it is a defence for the person to prove that the person took all reasonable precautions and exercised all due diligence to avoid breaching the condition.
- (6) In proceedings against a person for an offence under this section in relation to works within section 11(2)(a), it is a defence for the person to prove that the person took all reasonable precautions and exercised all due diligence to avoid or prevent damage to the monument.



- (7) In proceedings against a person for an offence under this section in relation to works within section 11(2)(a) or (c), it is a defence for the person to prove that –
- (a) before carrying out the works or before causing or permitting the works to be carried out, the person had taken all reasonable steps to find out whether there was a scheduled monument in the area affected by the works, and
  - (b) the person did not know, and had no reason to believe, that the monument was within the area affected by the works or (as the case may be) that it was a scheduled monument.
- (8) In proceedings against a person for an offence under this section it is a defence for the person to prove that –
- (a) the works were urgently necessary in the interests of safety or health,
  - (b) the works carried out were limited to the minimum measures immediately necessary, and
  - (c) notice in writing justifying in detail the carrying out of the works was given to the Welsh Ministers as soon as reasonably practicable.
- (9) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

*Temporary stop notices*

**31 Power of Welsh Ministers to issue temporary stop notice**

- (1) The Welsh Ministers may issue a temporary stop notice if they consider –
- (a) that works have been or are being carried out in relation to a scheduled monument which involve a breach of section 11 (requirement for works to be authorised) or of a condition subject to which scheduled monument consent has been granted, and
  - (b) that the works (or any of them) ought to be stopped immediately, having regard to the effect of the works on the monument as one of national importance.
- (2) A temporary stop notice must –
- (a) specify the works to which it relates,
  - (b) prohibit the carrying out of the works (or any of them specified in the notice),
  - (c) set out the Welsh Ministers' reasons for issuing the notice, and
  - (d) state the effect of section 33 (offence of breaching temporary stop notice).
- (3) The Welsh Ministers must display a copy of a temporary stop notice on the monument or land to which it relates, and the copy must specify the date on which it is first displayed.
- (4) But if –
- (a) it is not reasonably practicable to display a copy of the notice on the monument or land, or
  - (b) the Welsh Ministers consider that displaying a copy of the notice on the monument or land might damage the monument,

the Welsh Ministers may instead display a copy in a prominent place as near to the monument or land as is reasonably practicable.

- (5) The Welsh Ministers may serve a copy of the notice on any person they consider—
  - (a) to be carrying out the works that the notice prohibits or causing or permitting them to be carried out,
  - (b) to be an occupier of the monument or land to which the notice relates, or
  - (c) to have an interest in the monument or land.

### **32 Duration etc. of temporary stop notice**

- (1) A temporary stop notice takes effect when a copy of it is first displayed in accordance with section 31.
- (2) A temporary stop notice ceases to have effect—
  - (a) at the end of 28 days beginning with the day the copy of it is first displayed in accordance with section 31, or
  - (b) if it specifies a shorter period beginning with that day, at the end of that period.
- (3) But if the Welsh Ministers withdraw the notice before the end of the period for which it would otherwise have effect, the notice ceases to have effect when it is withdrawn.
- (4) The Welsh Ministers may not issue a second or subsequent temporary stop notice in relation to the same works unless they have, since issuing the previous notice, taken other enforcement action in relation to the breach referred to in section 31(1)(a).
- (5) In subsection (4) the reference to taking other enforcement action is a reference to—
  - (a) issuing an enforcement notice under section 35, or
  - (b) obtaining an injunction under section 42.

### **33 Offence of breaching temporary stop notice**

- (1) A person commits an offence if, at any time when a temporary stop notice has effect, the person carries out works prohibited by the notice or causes or permits such works to be carried out.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same temporary stop notice by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for the person to prove that the person did not know, and could not reasonably have been expected to know, of the existence of the temporary stop notice.
- (4) In proceedings for an offence under this section, it is a defence to prove that—
  - (a) the works were urgently necessary in the interests of safety or health,

- (b) the works carried out were limited to the minimum measures immediately necessary, and
  - (c) notice in writing justifying in detail the carrying out of the works was given to the Welsh Ministers as soon as reasonably practicable.
- (5) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.
- (6) In determining the amount of the fine, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

### **34 Compensation for loss or damage caused by temporary stop notice**

- (1) This section applies where –
- (a) the works specified in a temporary stop notice do not, at the time the notice takes effect, involve a breach of section 11 (requirement for works to be authorised) or of a condition subject to which scheduled monument consent has been granted, or
  - (b) the Welsh Ministers withdraw a temporary stop notice after it has taken effect.
- (2) This section does not apply by virtue of subsection (1)(b) where –
- (a) scheduled monument consent is granted for the works specified in the temporary stop notice after the notice has taken effect, and
  - (b) the Welsh Ministers withdraw the notice after the grant of that consent.
- (3) Any person who has an interest in the monument or land to which the notice relates at the time the notice takes effect is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any loss or damage suffered by the person that is directly attributable to the effect of the notice.
- (4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.
- (5) No compensation is payable under this section for loss or damage that the claimant could have avoided by –
- (a) providing information that the claimant was required to provide by an information notice served by the Welsh Ministers under section 197, or
  - (b) co-operating with the Welsh Ministers in any other way when responding to such a notice.
- (6) A claim for compensation under this section must be made in writing within 6 months beginning –
- (a) in a case falling within subsection (1)(a) but not within subsection (1)(b), with the day the temporary stop notice takes effect;

- (b) in a case falling within subsection (1)(b), with the day the notice is withdrawn.

*Enforcement notices*

**35 Power of Welsh Ministers to issue enforcement notice**

- (1) The Welsh Ministers may issue an enforcement notice if they consider –
  - (a) that works which involve a breach of section 11 (requirement for works to be authorised) or of a condition subject to which scheduled monument consent was granted have been or are being carried out in relation to a scheduled monument or land in, on or under which the monument is situated, and
  - (b) that it is appropriate to issue the notice, having regard to the effect of the works on the monument as one of national importance.
- (2) An enforcement notice must –
  - (a) specify the alleged breach, and
  - (b) require works specified in the notice to be stopped, or require steps specified in the notice to be taken for one or more of the purposes set out in subsection (3).
- (3) The purposes are –
  - (a) restoring the monument or land to its condition before the breach took place,
  - (b) if the Welsh Ministers consider that restoration would not be reasonably practicable or would be undesirable, carrying out further works to alleviate the effect of the breach, or
  - (c) putting the monument or land in the condition it would have been in if the terms of any scheduled monument consent for the works to which the notice relates (including any conditions attached to the consent) had been complied with.
- (4) Where an enforcement notice imposes a requirement under subsection (3)(b), scheduled monument consent is to be treated as having been granted for any works carried out in compliance with the requirement.
- (5) The Welsh Ministers must –
  - (a) maintain a list of every monument in respect of which an enforcement notice is in effect and publish the up-to-date list, and
  - (b) provide a copy of the enforcement notice relating to a monument in the list to any person who requests one.

**36 Service and taking effect of enforcement notice**

- (1) An enforcement notice must specify –
  - (a) the date on which it is to take effect, and
  - (b) the period within which the works specified in the notice must be stopped or the steps specified in it must be taken.

- (2) The notice takes effect at the beginning of the day specified under subsection (1)(a); but where an appeal is made against the notice under section 39, this is subject to subsection (4) of that section.
- (3) An enforcement notice may specify different periods for stopping different works or taking different steps.
- (4) Where the Welsh Ministers issue an enforcement notice, they must serve a copy of the notice on—
  - (a) every owner and occupier of the monument or land to which the notice relates,
  - (b) if the monument or land is let but the lessee is not the occupier, the lessee, and
  - (c) any other person who has an interest in the monument or land which the Welsh Ministers consider to be materially affected by the notice.
- (5) Each copy of the notice must be served—
  - (a) before the end of 28 days after the day the notice is issued, and
  - (b) at least 28 days before the date specified in the notice as the date on which it is to take effect.

**37 Variation and withdrawal of enforcement notice**

- (1) Where the Welsh Ministers have issued an enforcement notice, they may—
  - (a) withdraw the notice;
  - (b) waive or relax any requirement of the notice, and in particular extend the period within which the notice requires any works to be stopped or any step to be taken.
- (2) The Welsh Ministers may exercise the powers in subsection (1) whether or not the notice has taken effect.
- (3) The withdrawal of an enforcement notice does not prevent the Welsh Ministers from issuing another enforcement notice.
- (4) Subsection (5) applies where the Welsh Ministers had served copies of the enforcement notice under section 36(4) before exercising the powers in subsection (1).
- (5) Immediately after exercising any of those powers, the Welsh Ministers must give notice that they have done so to every person who was served with a copy of the enforcement notice (or who would be served with a copy of the notice if it were reissued).

**38 Effect of granting scheduled monument consent on enforcement notice**

- (1) This section applies if, after an enforcement notice has been issued, scheduled monument consent is granted under section 13(2)—
  - (a) authorising any works to which the notice relates that have been carried out in breach of section 11, or
  - (b) authorising works which involve a breach of a condition subject to which a previous consent was granted.

- (2) The notice ceases to have effect (or does not take effect) so far as it—
  - (a) requires steps to be taken that are inconsistent with the authorisation of the works, or
  - (b) requires steps to be taken for complying with the condition.
- (3) The fact that an enforcement notice has wholly or partly ceased to have effect by virtue of this section does not affect the liability of any person for an offence in respect of a previous failure to comply with the notice (see section 41).

### **39 Appeal against enforcement notice**

- (1) A person on whom a copy of an enforcement notice is served, or any other person with an interest in the monument or land to which the notice relates, may appeal to a magistrates' court against the notice.
- (2) An appeal may be made on one or more of the following grounds—
  - (a) that the matters alleged to constitute a breach of section 11 or of a condition of scheduled monument consent have not occurred;
  - (b) that those matters (if they occurred) do not constitute such a breach;
  - (c) that the following conditions are met—
    - (i) works to the monument or land were urgently necessary in the interests of safety or health,
    - (ii) the works carried out were limited to the minimum measures immediately necessary, and
    - (iii) written notice justifying in detail the need for the works was given to the Welsh Ministers as soon as reasonably practicable;
  - (d) that a copy of the enforcement notice was not served on a person as required by section 36;
  - (e) that the period within which the notice requires any works to be stopped or any steps to be taken is unreasonably short.
- (3) An appeal must be made before the date specified in the notice as the date on which it is to take effect.
- (4) Where an appeal is made, the notice has no effect until the appeal is finally determined or withdrawn.
- (5) On an appeal under this section, a magistrates' court may uphold the notice or quash it.
- (6) The court may uphold a notice even if a copy of it was not served on a person who was required by section 36 to be served, if the court is satisfied that the person has not been substantially prejudiced by the failure.

### **40 Powers to enter land and take steps required by enforcement notice**

- (1) If the period within which an enforcement notice requires any step to be taken has ended and the step has not been taken, a person authorised in writing by the Welsh Ministers may—

- (a) enter the land in, on or under which the monument is situated and take the step, and
  - (b) recover from a person who is then an owner or lessee of the monument or land the costs incurred in doing so.
- (2) The liability under subsection (1) of a person who is the owner of a monument or land merely by virtue of being entitled to receive the rack rent as trustee for another person is limited to the total amount of money the person has or has had by virtue of that entitlement.
- (3) Where, on an application by way of complaint made by an owner of a scheduled monument or land, a magistrates' court is satisfied that an occupier of the monument or land is preventing the owner from taking steps required by an enforcement notice, the court may by warrant authorise the owner to enter the land and take the steps.

#### **41 Offence of failing to comply with enforcement notice**

- (1) Where, at any time after the end of the period within which an enforcement notice requires any works to be stopped or any step to be taken, the works are being carried out or the step has not been taken, a person who is at that time an owner of the scheduled monument or land to which the notice relates is guilty of an offence.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and a person may be convicted of more than one offence in relation to the same enforcement notice by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for the person to prove –
- (a) that the person did everything the person could be expected to do to secure that the works specified in the notice were stopped or the steps required by the notice were taken, or
  - (b) that the person did not know, and could not reasonably have been expected to know, of the existence of the enforcement notice.
- (4) A person guilty of an offence under this section is liable on summary conviction, or on conviction for indictment, to a fine.
- (5) In determining the amount of the fine, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

#### *Injunctions*

#### **42 Injunction to restrain unauthorised works or failure to comply with condition of consent**

- (1) The Welsh Ministers may apply to the High Court or the county court for an injunction restraining –
- (a) an actual or expected breach of section 11 (requirement for works to be authorised) in relation to a scheduled monument or land in, on or under which there is a scheduled monument, or

- (b) an actual or expected failure to comply with a condition of scheduled monument consent for works to a scheduled monument.
- (2) The Welsh Ministers may make an application whether or not they have exercised or are proposing to exercise any of their other powers under this Part.
- (3) The court may grant an injunction on any terms it considers appropriate for the purpose of restraining the breach.

## CHAPTER 6

### ACQUISITION, GUARDIANSHIP AND PUBLIC ACCESS

#### *Acquisition of monuments of special historic interest*

#### **43 Compulsory acquisition of monuments of special historic interest**

- (1) The Welsh Ministers may acquire compulsorily any monument of special historic interest for the purpose of securing its preservation.
- (2) The Acquisition of Land Act 1981 (c. 67) applies to an acquisition under this section.
- (3) Subsection (4) applies for the purpose of assessing compensation for any acquisition under this section of a monument which is a scheduled monument immediately before the day the compulsory purchase order is made.
- (4) Where this subsection applies, it is to be assumed that scheduled monument consent would not be granted for any works which would or might result in the demolition, destruction or removal of the monument or any part of it.

#### **44 Acquisition by agreement or gift of monuments of special historic interest**

- (1) The Welsh Ministers may acquire by agreement any monument of special historic interest.
- (2) A local authority may acquire by agreement any monument of special historic interest in or in the vicinity of its area.
- (3) The Welsh Ministers or any local authority may accept a gift (whether by deed or will) of any monument of special historic interest.
- (4) Part 1 of the Compulsory Purchase Act 1965 (c. 56) applies (so far as relevant) to an acquisition under this section, other than sections 4 to 8, section 10 and section 31 of that Act.

#### *Guardianship of monuments of special historic interest*

#### **45 Power to place monument of special historic interest under guardianship**

- (1) A person with a qualifying interest in a monument of special historic interest may, with the agreement of the Welsh Ministers, appoint them by deed as guardians of the monument.
- (2) A person with a qualifying interest in a monument of special historic interest may, with the agreement of any local authority in or in the vicinity of whose area the monument is situated, appoint the authority by deed as guardian of the monument.
- (3) A person who is not the occupier of a monument may not establish guardianship of the monument under this section unless the occupier is also a party to the deed.



- (4) Any other person who has an interest in the monument may be a party to the deed in addition to the person establishing the guardianship of the monument and (where the latter is not the occupier) the occupier.
- (5) The following interests in a monument are qualifying interests for the purposes of this section—
  - (a) a freehold estate;
  - (b) a leasehold estate, or interest in possession, which—
    - (i) has at least 45 years left to run, or
    - (ii) is renewable for at least 45 years;
  - (c) an interest in possession for the person's own life or the life of another person, or for lives (whether or not including the person's own life), under any existing or future trust of land where the estate or interest subject to the trust falls within paragraph (a) or (b).
- (6) In subsection (5)(c) "trust of land" has the same meaning as in the Trusts of Land and Appointment of Trustees Act 1996 (c. 47).
- (7) In this Chapter "guardianship deed" means a deed executed under subsection (1) or (2).

#### **46 Supplementary provision about guardianship deeds**

- (1) A guardianship deed is a local land charge.
- (2) Every person deriving title to a monument of special historic interest from, through or under any person who has executed a guardianship deed is bound by the deed unless the person derives title by virtue of any disposal made by the person who executed the deed before the date of the deed.
- (3) The Welsh Ministers or a local authority may not become guardians of a building or structure occupied as a dwelling by any person other than the caretaker of the building or structure or a member of the caretaker's family.
- (4) Any person who has any estate or interest in a monument under guardianship has the same right and title to, and estate or interest in, the monument in all respects as if the monument were not under guardianship; but this is subject to any provision to the contrary in this Part.

#### **47 General functions of guardians**

- (1) The guardian of a monument must maintain it, and may do anything the guardian considers necessary for its maintenance.
- (2) The guardian of a monument has full control and management of it, and may do anything the guardian considers necessary for its proper control and management.
- (3) The powers in subsections (1) and (2) include power to—
  - (a) make any examination of the monument;
  - (b) open up the monument or make excavations of it for the purpose of examination or otherwise;
  - (c) remove the whole or any part of the monument to another place for the purposes of preserving it.

- (4) The power in subsection (2) includes power to require the payment of a charge in connection with any use of the monument.
- (5) The guardian of a monument may enter the site of the monument for the purpose of exercising any of the guardian's powers under this section in relation to it (and may authorise any other person to enter the site and exercise those powers on the guardian's behalf).
- (6) Subsections (2) to (4) are subject to any provision to the contrary in the guardianship deed.

#### **48 Termination of guardianship**

- (1) The guardian of a monument may agree with the persons who are for the time being immediately affected by the operation of the guardianship deed—
  - (a) to exclude any part of the monument from the guardianship, or
  - (b) to renounce guardianship of the monument.
- (2) In the absence of such an agreement, a monument remains under guardianship (unless it is acquired by its guardian) until an occupier of the monument who is entitled to terminate the guardianship gives notice in writing to that effect to the guardian of the monument.
- (3) An occupier of a monument is entitled to terminate the guardianship of the monument if the occupier—
  - (a) has a qualifying interest (within the meaning of section 45(5)) in the monument, and
  - (b) is not bound by the guardianship deed.
- (4) A local authority must consult the Welsh Ministers before making an agreement under subsection (1).
- (5) The guardian of a monument may not make an agreement under subsection (1) unless the guardian is satisfied, with respect to the part or whole of the monument (as the case may be)—
  - (a) that satisfactory arrangements have been made for ensuring its preservation after termination of the guardianship, or
  - (b) that it is no longer practicable to preserve it (whether because of the cost of preserving it or otherwise).
- (6) An agreement under subsection (1) must be made under seal.
- (7) For the purposes of subsection (1) a person is immediately affected by the operation of a guardianship deed relating to a monument if the person is bound by that deed and is in possession or occupation of the monument.

*Acquisition and guardianship of land in the vicinity of a monument of special historic interest etc.*

#### **49 Acquisition and guardianship of land in the vicinity of a monument**

- (1) References in sections 43 to 46 to a monument of special historic interest include any land adjoining or in the vicinity of the monument which the Welsh Ministers consider, or (as the case may be) a local authority considers, to be reasonably required for any of the purposes mentioned in subsection (2).

- (2) The purposes are –
  - (a) the maintenance of the monument or its amenities;
  - (b) the storage of equipment or materials for the maintenance of the monument or its amenities;
  - (c) providing or facilitating access to the monument;
  - (d) the proper control or management of the monument;
  - (e) the provision of facilities and services for the public for or in connection with providing public access to the monument.
- (3) The power of compulsory acquisition in section 43(1), as it applies by virtue of subsection (1) of this section, is to be read as if for “the purpose of securing its preservation” there were substituted “any of the purposes mentioned in section 49(2)”.
- (4) Land may be acquired or taken into guardianship by virtue of this section either at the same time as the monument or later.
- (5) A person who is the guardian of any land by virtue of this section has full control and management of the land, and may do anything the guardian considers necessary –
  - (a) for its proper control and management (including requiring the payment of a charge in connection with any use of the land), and
  - (b) for the use of the land for any of the purposes relating to the monument mentioned in subsection (2).
- (6) A person who is the guardian of any land by virtue of this section may enter the land for the purpose of exercising the guardian’s powers under subsection (5) (and may authorise any other person to enter the site and to exercise those powers on the guardian’s behalf).
- (7) Section 48(1) to (4) and (7) apply in relation to any land taken into guardianship by virtue of this section as they apply in relation to a monument.
- (8) Apart from any termination of guardianship by virtue of section 48, guardianship of any such land also ends if the monument in question –
  - (a) ceases to be under guardianship otherwise than by virtue of being acquired by its guardians, or
  - (b) ceases to exist.
- (9) Where a monument is owned by, or under the guardianship of, the Welsh Ministers or a local authority by virtue of this Chapter, references in this Chapter to land associated with that monument (or to associated land) are references to –
  - (a) any land acquired or taken into guardianship by virtue of this section for a purpose mentioned in subsection (2), or
  - (b) any land appropriated for any such purpose under a power conferred by any other enactment.

**50 Acquisition of easements and other similar rights over land in the vicinity of a monument**

- (1) The Welsh Ministers may acquire an easement over land adjoining or in the vicinity of any monument which is under their ownership by virtue of this Chapter, if they consider the easement to be necessary –
  - (a) for any of the purposes mentioned in section 49(2) relating to that monument, or
  - (b) for the use of any land associated with that monument for any of those purposes.
- (2) An acquisition under subsection (1) may be made by agreement or compulsorily.
- (3) A local authority may acquire an easement over land adjoining or in the vicinity of any monument which is under its ownership by virtue of this Chapter, if the easement appears to it to be necessary –
  - (a) for any of the purposes mentioned in section 49(2) relating to that monument, or
  - (b) for the use of any land associated with that monument for any of those purposes.
- (4) An acquisition under subsection (3) may only be made by agreement.
- (5) The guardian of a monument or of any land may acquire, for the benefit of the monument or land, a relevant right over land adjoining or in the vicinity of the monument or land, if the guardian considers the right to be necessary –
  - (a) for any of the purposes mentioned in section 49(2) relating to that monument or land, or
  - (b) for the use of any land associated with that monument or land for any of those purposes.
- (6) For the purposes of subsection (5) “relevant right” means a right (of any description) which would, if acquired by an owner of the monument or land in question, be an easement.
- (7) The acquisition of a right under subsection (5) –
  - (a) in the case of the Welsh Ministers, may be made by agreement or compulsorily;
  - (b) in the case of a local authority, may be made only by agreement.
- (8) A right acquired under subsection (5) –
  - (a) is to be treated for the purposes of its acquisition under this section and in all other respects as if it were a legal easement, and
  - (b) may be enforced by the guardians for the time being of the monument or land for whose benefit it was acquired as if they were the freehold owner in possession of that monument or land.
- (9) If the condition in subsection (10) is met in relation to a monument, a right which under subsection (5) is acquired by agreement –
  - (a) may be revoked by the grantor, subject to any provision to the contrary in the agreement under which it was acquired, and

- (b) may be revoked by any successor in title of the grantor as respects any of the land over which it is exercisable in which the the successor has an interest.
- (10) The condition mentioned in subsection (9) is that the monument –
  - (a) ceases to be under guardianship otherwise than by virtue of being acquired by its guardians, or
  - (b) ceases to exist.
- (11) A right acquired under subsection (5) is a local land charge.
- (12) The powers of acquisition in this section include power to acquire an easement or right by the grant of a new right.
- (13) The Acquisition of Land Act 1981 (c. 67) applies to any compulsory acquisition under this section.
- (14) Part 1 of the Compulsory Purchase Act 1965 (c. 56) applies (so far as relevant) to an acquisition by agreement under this section, other than sections 4 to 8, section 10 and section 31 of that Act.

*Agreements with occupiers of monuments or adjoining etc. land*

**51 Agreements concerning management of monuments of special historic interest and land in their vicinity**

- (1) The Welsh Ministers may make an agreement under this section with –
  - (a) any occupier of a monument of special historic interest, or
  - (b) any occupier of land adjoining or in the vicinity of such a monument.
- (2) A local authority may make an agreement under this section with –
  - (a) any occupier of a monument of special historic interest in or in the vicinity of its area, or
  - (b) any occupier of land adjoining or in the vicinity of any such monument.
- (3) An agreement under this section is referred to in this Part as a “management agreement”.
- (4) Any person who has an interest in a monument of special historic interest or in any land adjoining or in the vicinity of such a monument may be a party to a management agreement (in addition to the occupier).
- (5) A management agreement may –
  - (a) make provision about the maintenance and preservation of the monument and its amenities (including, where an agreement is made by the Welsh Ministers, provision granting scheduled monument consent under section 13(1) for specified works of maintenance or preservation);
  - (b) make provision about the carrying out of specified works, or the doing of any specified thing, in relation to the monument or land;
  - (c) provide for public access to the monument or land and the provision of associated facilities, information or services to the public;

- (d) restrict access to, or use of, the monument or land;
- (e) prohibit the doing of any specified thing in relation to the monument or land;
- (f) provide for the Welsh Ministers or the local authority (as the case may be) to make payments of specified amounts and on specified terms –
  - (i) for or towards the cost of any work provided for under the agreement, or
  - (ii) in consideration of any restriction, prohibition or obligation accepted by any other party to the agreement.
- (6) A management agreement may also contain incidental and consequential provision.
- (7) Where a management agreement made by the Welsh Ministers grants scheduled monument consent subject to conditions, the agreement must specify those conditions.
- (8) Subsection (9) applies where a management agreement expressly provides that the agreement as a whole or any restriction, prohibition or obligation arising under it is to be binding on the successors of any party to the agreement.
- (9) Every person deriving title to the monument or land in question from, through or under that party is bound by the agreement, or by that restriction, prohibition or obligation, unless the title is derived by virtue of any disposal made by that party before the date of the agreement.
- (10) Section 84 of the Law of Property Act 1925 (c. 20) (power of Upper Tribunal to discharge or modify restrictive covenants) does not apply to a management agreement.
- (11) In this section “specified” means specified or described in a management agreement.

*Powers of limited owners*

**52 Powers of limited owners for purposes of sections 45, 50 and 51**

- (1) A person may establish guardianship of a monument or land under section 45 or join in executing a guardianship deed under that section, despite being a limited owner of the monument or land.
- (2) A person may grant an easement or other right over land which the Welsh Ministers are or any local authority is authorised to acquire under section 50, despite being a limited owner of the land.
- (3) A person may make a management agreement under section 51 with respect to a monument or land, despite being a limited owner of the monument or land.
- (4) For the purposes of this section –
  - (a) a body corporate or corporation sole is a limited owner of any land in which it has an interest, and
  - (b) any other persons are limited owners of land in which they have an interest if they hold that interest in any of the ways mentioned in subsection (5).
- (5) The ways of holding an interest in land referred to in subsection (4)(b) are –

- (a) as tenant for life or statutory owner (within the meaning of the Settled Land Act 1925 (c. 18));
  - (b) as trustees of land (within the meaning of the Trusts of Land and Appointment of Trustees Act 1996 (c. 47));
  - (c) as trustees for charities or commissioners or trustees for ecclesiastical, collegiate or other public purposes.
- (6) Where a person who is a limited owner of any land by virtue of holding an interest in the land in any of the ways mentioned in subsection (5) executes a guardianship deed in relation to the land, the guardianship deed binds every successive owner of any estate or interest in the land.
- (7) But where the land is, at the date of the deed, subject to any incumbrance not capable of being overreached by the limited owner in exercise of any powers of sale or management conferred on the limited owner by law or under any settlement or other instrument, the deed does not bind the incumbrancer.
- (8) Where a management agreement under section 51 to which a limited owner is a party expressly provides that the agreement as a whole or any restriction, prohibition or obligation arising under the agreement binds the limited owner's successors, subsections (9) and (10) apply to the agreement or (as the case may be) to the restriction, prohibition or obligation in question.
- (9) Where a person is a limited owner by virtue of holding an interest in any of the ways mentioned in subsection (5), the agreement or restriction, prohibition or obligation binds every successive owner of any estate or interest in the land.
- (10) But where the land is, at the date of the agreement, subject to any incumbrance not capable of being overreached by the limited owner in exercise of powers of sale or management conferred on the limited owner by law or under any settlement or other instrument, the agreement or restriction, prohibition or obligation does not bind the incumbrancer.

*Transfer of ownership or guardianship and disposal of land*

**53 Transfer of monuments of special historic interest between local authorities and the Welsh Ministers**

- (1) Where the Welsh Ministers are the owners or guardians of a monument or associated land, they may transfer the ownership or guardianship of that monument or land to any local authority.
- (2) Where a local authority is the owner or guardian of a monument or associated land, it may transfer the ownership or guardianship of that monument or land –
- (a) to the Welsh Ministers, or
  - (b) to another local authority.
- (3) But the Welsh Ministers or a local authority may not transfer the guardianship of a monument or associated land under this section without the agreement of the persons who are for the time being immediately affected by the operation of the guardianship deed.

- (4) For the purposes of subsection (3) a person is immediately affected by the operation of a guardianship deed relating to a monument or land if the person is bound by that deed and is in possession or occupation of the monument or land.

#### **54 Disposal of land acquired under this Chapter**

- (1) The Welsh Ministers may dispose of any land acquired by them under section 43, 44 or 53.
- (2) A local authority may dispose of any land acquired by it under section 44 or 53, but must consult the Welsh Ministers before doing so.
- (3) Where the land disposed of under this section is or includes a monument, the disposal must be made on terms the person disposing of the land considers will ensure the preservation of the monument.
- (4) But subsection (3) does not apply if the person disposing of the land considers that it is no longer practicable to preserve the monument (whether because of the cost of preserving it or otherwise).

#### *Public access to monuments under public control*

#### **55 Public access to monuments under public control**

- (1) The Welsh Ministers and any local authority must ensure the public has access to any monument which is under their or its ownership or guardianship by virtue of this Chapter; but this is subject to—
  - (a) the following provisions of this section,
  - (b) any regulations or byelaws made under section 56, and
  - (c) any provision to the contrary included in any agreement relating to the monument made under section 25 or 51 (scheduled monument partnership agreements and management agreements).
- (2) In relation to any monument under guardianship, the duty imposed by subsection (1) is also subject to any provision to the contrary in the guardianship deed.
- (3) References in the following subsections to a monument are—
  - (a) in relation to the Welsh Ministers, to a monument which—
    - (i) is under their ownership or guardianship by virtue of this Chapter;
    - (ii) is under their control or management otherwise than by virtue of this Chapter;
  - (b) in relation to a local authority, to a monument which is under its ownership or guardianship by virtue of this Chapter.
- (4) The Welsh Ministers or a local authority may control the times of normal public access to a monument.



- (5) The Welsh Ministers or a local authority may exclude the public from access to a monument, or to any part of it, for any period they consider or it considers necessary –
  - (a) in the interests of safety;
  - (b) for its maintenance or preservation;
  - (c) in connection with events held or other organised activities carried out in or on it.
- (6) The Welsh Ministers or a local authority may also impose other restrictions or controls on public access to a monument, or to any part of it, for a purpose mentioned in subsection (5).
- (7) The Welsh Ministers or a local authority may charge the public for admission to a monument.
- (8) The Welsh Ministers or a local authority may refuse a person admission to a monument if they have or it has reason to believe that the person is likely to do anything likely to damage the monument or its amenities or to disturb the public in their enjoyment of it.

**56 Power to make regulations and byelaws in connection with public access to monuments under public control**

- (1) The Welsh Ministers may regulate public access to any monument under their ownership or guardianship by virtue of this Chapter by making regulations that prohibit or regulate any act or thing likely to damage the monument or its amenities or disturb the public in their enjoyment of it.
- (2) Regulations under subsection (1) may also make provision in relation to any monument under the control or management of the Welsh Ministers otherwise than by virtue of this Chapter.
- (3) A local authority may regulate public access to any monument under its ownership or guardianship by virtue of this Chapter by making byelaws that prohibit or regulate any act or thing likely to damage the monument or its amenities or disturb the public in their enjoyment of it.
- (4) A person who fails to comply with provision made by regulations or byelaws under this section commits an offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) Byelaws made under this section may make different provision in relation to different monuments or different descriptions of monument.
- (7) Byelaws under this section do not take effect unless they are confirmed by the Welsh Ministers.
- (8) The Welsh Ministers may confirm the byelaws with or without modifications.

**57 Provision of facilities for the public in connection with monuments of special historic interest**

- (1) The Welsh Ministers may provide facilities, information and other services to the public for or in connection with providing public access –
  - (a) to any monument under their ownership or guardianship by virtue of this Chapter, or
  - (b) to any monument otherwise under their control or management.
- (2) A local authority may provide facilities, information and other services to the public for or in connection with providing public access to any monument under its ownership or guardianship by virtue of this Chapter.
- (3) Facilities and information or other services for the public may be provided under this section in or on the monument itself or on any land associated with the monument.
- (4) The Welsh Ministers or a local authority may charge for the use of any facility or service provided by them or it under this section.

**CHAPTER 7****GENERAL***Damage to monuments***58 Offence of damaging certain monuments of special historic interest**

- (1) A person who without lawful excuse destroys or damages a protected monument is guilty of an offence if the person –
  - (a) knew or ought reasonably to have known that it was a protected monument, and
  - (b) intended to destroy or damage the monument or was reckless as to whether the monument would be damaged or destroyed.
- (2) In subsection (1) “protected monument” means –
  - (a) a scheduled monument, or
  - (b) a monument under the ownership or guardianship of the Welsh Ministers or a local authority by virtue of this Chapter.
- (3) This section applies to anything done by or under the authority of the owner of the monument, other than an act for the carrying out of excepted works, as it applies to anything done by any other person.
- (4) In subsection (3) “excepted works” means –
  - (a) works authorised under Chapter 3;
  - (b) works for which development consent has been granted under the Planning Act 2008 (c. 29).
- (5) A person guilty of an offence under this section is liable –

- (a) on summary conviction, to a fine or imprisonment for a term not exceeding the applicable limit under section 224(1A)(b) of the Sentencing Code, or both;
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.

## 59 Compensation orders for damage to monuments under guardianship

- (1) Subsection (2) applies where an owner or any other person is convicted of an offence involving damage to a monument which was at the time of the offence under the guardianship of the Welsh Ministers or any local authority by virtue of Chapter 6.
- (2) Any compensation order made under Chapter 2 of Part 7 of the Sentencing Code (compensation orders against convicted persons) in respect of that damage is to be made in favour of the Welsh Ministers or the local authority in question (as the case may require).

## 60 Restrictions on use of metal detectors

- (1) In this section –
  - “consent” (“*cydsyniad*”) means the written consent of the Welsh Ministers;
  - “metal detector” (“*datgelydd metel*”) means any device designed or adapted for detecting or locating any metal or mineral in the ground;
  - “protected place” (“*man gwarchoddedig*”) means –
    - (a) the site of any scheduled monument, or
    - (b) the site of any monument under the ownership or guardianship of the Welsh Ministers or a local authority by virtue of Chapter 6.
- (2) A person commits an offence if the person uses a metal detector in a protected place without consent to do so.
- (3) A person given consent to use a metal detector in a protected place commits an offence if the person, in using the metal detector in that place, fails to comply with any condition attached to the consent.
- (4) A person commits an offence if the person, without consent to do so, removes any object of archaeological or historical interest which the person has discovered by the use of a metal detector in a protected place.
- (5) A person given consent to remove or otherwise deal with any object which the person discovers by the use of a metal detector in a protected place commits an offence if, in removing or otherwise dealing with the object, the person fails to comply with any condition attached to the consent.
- (6) In any proceedings for an offence under subsection (2) it is a defence for a person to prove that the person used the metal detector for a purpose other than detecting or locating objects of archaeological or historical interest.
- (7) In any proceedings for an offence under subsection (2) or (4) it is a defence for a person to prove that the person –

- (a) had taken all reasonable steps to find out whether the place in which the metal detector was used was a protected place, and
  - (b) did not know, and had no reason to believe, that the place was a protected place.
- (8) A person guilty of an offence under subsection (2) or (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) A person guilty of an offence under subsection (4) or (5) is liable on summary conviction, or on conviction on indictment, to a fine.

*Urgent works for preservation of scheduled monument*

**61 Works for preservation of scheduled monument in cases of urgency**

- (1) If it appears to the Welsh Ministers that any works to which section 11 (requirement for works to be authorised) applies are urgently necessary for the preservation of a scheduled monument, they may enter the site of the monument and carry out those works.
- (2) Before exercising the power in subsection (1) the Welsh Ministers must give at least 7 clear days' written notice to every owner and occupier of the monument.
- (3) Where the Welsh Ministers carry out works under this section for repairing any damage to a scheduled monument—
- (a) any compensation order previously made in respect of that damage under Chapter 2 of Part 7 of the Sentencing Code in favour of any other person is enforceable (so far as not already complied with) as if it had been made in favour of the Welsh Ministers, and
  - (b) any such order subsequently made in respect of that damage must be made in favour of the Welsh Ministers.
- (4) Where works are carried out under this section, the works are to be treated as authorised works for the purposes of Chapter 3 (control of works affecting scheduled monuments).

*Expenditure and advice in relation to monuments*

**62 Expenditure on acquisition and preservation of monuments of special historic interest etc.**

- (1) The Welsh Ministers may meet or contribute towards the cost of the acquisition by any person of any monument of special historic interest.
- (2) The Welsh Ministers may—
- (a) remove or assist in the removal of any monument of special historic interest or any part of any such monument to another place for the purpose of preserving it;
  - (b) meet or contribute towards the cost of the removal of any such monument or any part of any such monument to another place for the purpose of preserving it.
- (3) The Welsh Ministers may at the request of an owner of any monument of special historic interest—
- (a) undertake or assist in the preservation, maintenance and management of the monument;

- (b) meet or contribute towards the cost of the preservation, maintenance and management of the monument.
- (4) The Welsh Ministers may contribute towards the cost of the provision of facilities or services for the public by a local authority under section 57.
- (5) A local authority may at the request of an owner of any monument of special historic interest in or in the vicinity of its area –
  - (a) undertake or assist in the preservation, maintenance and management of the monument;
  - (b) meet or contribute towards the cost of the preservation, maintenance and management of the monument.
- (6) Neither the Welsh Ministers nor a local authority may incur expenditure under this section in connection with any building or structure which is occupied as a dwelling by any person other than the caretaker of the building or structure or a member of the caretaker’s family.

**63 Advice and supervision of work by Welsh Ministers**

- (1) The Welsh Ministers may give advice about the treatment of any monument of special historic interest.
- (2) The Welsh Ministers may also supervise any work in connection with any monument of special historic interest if invited to do so by an owner of the monument.
- (3) The Welsh Ministers must supervise work in connection with any scheduled monument, if they consider it advisable (whether asked to do so by an owner or not).
- (4) The Welsh Ministers may charge for giving advice or supervising work under this section.

**64 Expenditure by local authorities on archaeological investigation**

- (1) If a local authority considers that any land in or in the vicinity of its area may contain a monument of special historic interest, or anything else of archaeological or historical interest, the authority may –
  - (a) carry out or assist in an archaeological investigation of the land, or
  - (b) meet or contribute towards the cost of an archaeological investigation of the land.
- (2) A local authority may publish the results of any archaeological investigation carried out, assisted or wholly or partly funded by it under this section.
- (3) The powers in subsection (1) may be exercised in relation to any land forming part of the sea bed within the seaward limits of the territorial sea adjacent to Wales.

*Powers of entry***65 Powers of entry for inspection of scheduled monuments etc.**

- (1) An authorised person may enter any land to inspect a scheduled monument in, on or under the land to assess its condition and assess –
  - (a) whether any works affecting the monument are being carried out in breach of section 11 (requirement for works to be authorised), or
  - (b) whether it has been or is likely to be damaged (by such works or otherwise).
- (2) An authorised person may enter any land to inspect a scheduled monument in, on or under the land in connection with –
  - (a) an application for scheduled monument consent for works affecting that monument,
  - (b) a proposal to modify or revoke a scheduled monument consent for any such works, or
  - (c) a proposal to make an order under section 27 (termination of scheduled monument partnership agreement or provision of agreement).
- (3) An authorised person may enter any land to assess whether any works to which a scheduled monument consent or an authorisation under section 12 relates are or have been carried out in accordance with the terms of the consent or authorisation (including any conditions).
- (4) An authorised person may enter any land on which any works to which a scheduled monument consent or an authorisation under section 12 relates are being carried out to –
  - (a) inspect the land (including any buildings or other structures on the land) to record any matters of archaeological or historical interest, or
  - (b) observe the carrying out of those works with a view to –
    - (i) examining and recording any objects or other material of archaeological or historical interest discovered during the course of those works, and
    - (ii) recording any matters of archaeological or historical interest discovered during the course of those works.
- (5) An authorised person may enter any land in, on or under which a scheduled monument is situated to erect and maintain on or near the site of the monument any notice boards and marker posts the Welsh Ministers consider to be desirable to protect the monument from accidental or deliberate damage.
- (6) The power in subsection (5) may not be exercised without the agreement of every owner and occupier of the land.
- (7) In this section “authorised person” means a person authorised in writing by the Welsh Ministers.

**66 Powers of entry relating to enforcement of controls on works**

- (1) An authorised person may enter any land to—
  - (a) determine whether a temporary stop notice should be issued;
  - (b) display a copy of a temporary stop notice in accordance with section 31 or attach it for the purpose of service in accordance with section 206(5)(c);
  - (c) assess whether a temporary stop notice has been complied with.
- (2) An authorised person may enter any land to—
  - (a) determine whether an enforcement notice should be issued;
  - (b) attach an enforcement notice for the purpose of service in accordance with section 206(5)(c);
  - (c) assess whether an enforcement notice has been complied with.
- (3) In this section “authorised person” means a person authorised in writing by the Welsh Ministers.

**67 Power of entry on land believed to contain monument of special historic interest**

- (1) An authorised person may enter any land in, on or under which the Welsh Ministers know or have reason to believe there is a monument of special historic interest to inspect the land (including any building or other structure on it) with a view to recording any matters of archaeological or historical interest.
- (2) An authorised person entering any land in exercise of the power in subsection (1) may carry out excavations in the land for the purposes of archaeological investigation.
- (3) An excavation under subsection (2) requires the agreement of every person whose agreement to the making of the excavation would be required apart from this section.
- (4) But subsection (3) does not apply if the Welsh Ministers know or have reason to believe that a monument of special historic interest they know or believe to be in, on or under the land is or may be at risk of imminent damage or destruction.
- (5) In this section “authorised person” means a person authorised in writing by the Welsh Ministers.

**68 Power of entry for survey and valuation in connection with claim for compensation**

- (1) An authorised person may enter any land to survey it, or estimate its value, in connection with a claim for compensation under this Part for any damage to that land or any other land.
- (2) In this section “authorised person” means—
  - (a) an officer of the Valuation Office of His Majesty’s Revenue and Customs, or
  - (b) a person authorised in writing by the Welsh Ministers.
- (3) The power to survey land under this section includes power to search and bore to determine the nature of the subsoil or the presence of minerals.

**69 Supplementary provision about powers of entry under this Part**

- (1) A power to enter land under this Part may be exercised at any reasonable time; but this subsection does not apply to section 65(5).
- (2) A person authorised to enter land under this Part may not demand admission as of right to any land which is occupied unless notice of the intended entry has been given to every occupier –
  - (a) where the purpose of the entry is to carry out any works on the land (other than excavations in exercise of the power under section 67), at least 14 days before the day of the intended entry, or
  - (b) in any other case (including excavations in exercise of the power under section 67), at least 24 hours before the day of the intended entry.
- (3) Subsection (2) does not apply to entry under –
  - (a) section 61 (but see subsection (2) of that section), or
  - (b) section 66(1).
- (4) A person authorised to enter land under this Part may not enter any building or structure or part of a building or structure occupied as a dwelling without the agreement of every occupier; but this subsection does not apply to the power in section 68.
- (5) A person authorised to enter land under this Part must –
  - (a) if required to do so by or on behalf of an owner or occupier of the land, produce evidence of the person’s authorisation and state the purpose of the entry before entering the land;
  - (b) if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.
- (6) A person entering land in exercise of a power of entry under this Part may take assistance or equipment reasonably required for the purpose to which the entry relates.
- (7) Where a person carries out any archaeological investigation or examination of land in the exercise of a power of entry under this Part, the person may take and remove any samples which appear to the person to be reasonably required for the purpose of archaeological analysis.
- (8) Where –
  - (a) a power of entry under this Part is exercisable by a person (“P1”) in relation to any land, and
  - (b) works are being carried out on the land by another person (“P2”),P1 must, in exercising the power of entry, comply with any reasonable requirements or conditions imposed by P2 for the purpose of preventing interference or delay to the works.
- (9) Subsection (8) does not apply where the works in question are being carried out in breach of section 11 (requirement for works to be authorised).



- (10) For the purposes of subsection (8), a requirement or condition is not reasonable if complying with it would frustrate the exercise of the power of entry or the purpose of entry.
- (11) A person who intentionally obstructs a person exercising a power of entry under this Part commits an offence.
- (12) A person guilty of an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (13) Where a person –
  - (a) in the exercise of the power of entry under section 68, proposes to carry out works authorised by subsection (3) of that section, and
  - (b) is required to give notice of the intended entry under subsection (2)(a) of this section,

the person may not carry out the works unless the notice of intended entry includes notice of the person's intention to carry them out.

- (14) Where –
  - (a) in the exercise of the power of entry under section 68, a person proposes to carry out any works authorised by subsection (3) of that section on land that belongs to a statutory undertaker, and
  - (b) the undertaker objects to the proposal on the ground that carrying out of the works would be seriously detrimental to the carrying on of its undertaking,

the person may not carry out the works without the agreement of the Welsh Ministers.

## **70 Compensation for damage caused by exercise of certain powers under this Part**

- (1) This section applies to any power to enter, or to do anything on, any land under section 40 or sections 65 to 68.
- (2) Any person interested in land is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any damage caused to the land or to property on it in the exercise of a power to which this section applies.
- (3) A claim for compensation under this section must be made in writing within 6 months beginning with the day the damage was caused (or if the damage was caused over more than one day, the last day it was caused).

## **71 Treatment and preservation of finds**

- (1) This section applies where a person enters land in exercise of a power of entry under this Part –
  - (a) to carry out excavations in the land or works affecting a monument of special historic interest situated in, on or under the land,
  - (b) to assess or observe works on the land under section 65(3) or (4)(b), or
  - (c) to carry out an archaeological examination of the land.
- (2) The person may –

- (a) take temporary custody of any object of archaeological or historical interest discovered during the course of the excavations, works or examination, and
  - (b) remove the object from its site for the purpose of examining, testing, treating, recording or preserving it.
- (3) The appropriate authority may not, without the agreement of every owner, retain the object for longer than is reasonably required to –
- (a) examine and record it, and
  - (b) carry out any test or treatment which appears to the authority to be desirable –
    - (i) for the purpose of archaeological investigation or analysis, or
    - (ii) to restore or preserve the object.
- (4) In subsection (3) “appropriate authority” means –
- (a) in a case where the power of entry was exercised by or on behalf of the Welsh Ministers, the Welsh Ministers, and
  - (b) in a case where the power of entry was exercised by or on behalf of a local authority, that authority.
- (5) This section does not affect any right of the Crown under the Treasure Act 1996 (c. 24).

*Supplementary*

**72 Validity of certain decisions and orders under this Part**

- (1) The validity of a decision or order to which this section applies may not be questioned in any legal proceedings except an application for statutory review under section 73.
- (2) The decisions to which this section applies are –
  - (a) a decision of the Welsh Ministers on an application for scheduled monument consent, and
  - (b) a decision on a review under section 9.
- (3) This section applies to an order under section 20 modifying or revoking a scheduled monument consent.
- (4) This section does not prevent any court exercising any jurisdiction in relation to a refusal or failure to make a decision to which this section applies.

**73 Application to High Court for statutory review of decision or order**

- (1) A person aggrieved by a decision or order to which section 72 applies may make an application for statutory review.
- (2) An application for statutory review is an application to the High Court questioning the validity of the decision or order on the grounds that –
  - (a) it is not within the powers conferred by this Act, or

- (b) a relevant requirement has not been complied with in relation to the decision or order.
- (3) An application for statutory review must be made before the end of 6 weeks beginning with the day after the day the decision or order to which the application relates is made.
- (4) On any application for statutory review the High Court –
  - (a) may make an interim order suspending the operation of the decision or order to which the application relates, until the proceedings are finally determined;
  - (b) may quash that decision or order if satisfied that –
    - (i) it is not within the powers conferred by this Act, or
    - (ii) the interests of the applicant have been substantially prejudiced by a failure to comply with a relevant requirement in relation to the decision or order.
- (5) In this section “relevant requirement” means any requirement of –
  - (a) this Act or the Tribunals and Inquiries Act 1992 (c. 53), or
  - (b) any subordinate legislation made under this Act or under that Act.

#### **74 Crown land**

- (1) This Part applies in relation to Crown land only to the extent set out below.
- (2) A monument situated in, on or under Crown land may be included in the schedule.
- (3) Any restrictions or powers imposed or conferred by this Part apply and are exercisable in relation to Crown land and in relation to anything done on Crown land otherwise than by or on behalf of the Crown, but not so as to affect any interest of the Crown in the land.
- (4) This section does not permit –
  - (a) a power under this Part to enter, or to do anything on, any land to be exercised in relation to Crown land, or
  - (b) an interest in Crown land held otherwise than by or on behalf of the Crown to be acquired compulsorily under this Part,without the agreement of the appropriate Crown authority.

#### **75 Interpretation of this Part**

- (1) In this Part –
  - “archaeological examination” (“*archwiliad archaeolegol*”) has the meaning given by subsection (3);
  - “archaeological investigation” (“*ymchwiliad archaeolegol*”) has the meaning given by subsection (2);

“enforcement notice” (*“hysbysiad gorfodi”*) means an enforcement notice issued under section 35;

“flooding operations” (*“gweithrediadau i foddi tir”*) means covering land with water or another liquid or partially liquid substance;

“guardian” (*“gwarcheidwad”*) is to be interpreted in accordance with sections 45 and 49;

“guardianship deed” (*“gweithred warcheidiaeth”*) has the meaning given by section 45(7);

“interim protection” (*“gwarchodaeth interim”*) has the meaning given by section 6(3);

“local authority” (*“awdurdod lleol”*) means –

- (a) a county council or county borough council in Wales, and
- (b) a National Park authority in Wales;

“monument of special historic interest” (*“heneb o ddiddordeb hanesyddol arbennig”*) has the meaning given by subsection (6);

“possession” (*“meddiant”*) includes receipt of rents and profits or the right to receive rents and profits (if any);

“the schedule” (*“y gofrestr”*) has the meaning given by section 3;

“scheduled monument consent” (*“cydsyniad heneb gofrestredig”*) has the meaning given by section 13;

“temporary stop notice” (*“hysbysiad stop dros dro”*) means a temporary stop notice issued under section 31;

“tipping operations” (*“gweithrediadau tipio”*) means tipping soil or spoil or depositing building or other materials or matter (including waste) on any land;

“works” (*“gwaith”*) includes –

- (a) flooding or tipping operations,
- (b) any operations carried out for the purposes of agriculture (within the meaning of the Town and Country Planning Act 1990 (c. 8)) or forestry (including afforestation), and
- (c) operations of any other description.

(2) In this Part “archaeological investigation” means any investigation of land, objects or other material for the purpose of obtaining and recording any information of archaeological or historical interest and includes in the case of an archaeological investigation of land –

- (a) any investigation for the purpose of discovering and revealing and (where appropriate) recovering and removing any objects or other material of archaeological or historical interest situated in, on or under the land, and
- (b) examining, testing, treating, recording and preserving any such objects or material discovered during the course of any excavations or inspections carried out for the purposes of any such investigation.

- (3) In this Part “archaeological examination”, in relation to land, means any examination or inspection of the land (including buildings or other structures on the land) for the purpose of obtaining and recording any information of archaeological or historical interest.
- (4) In this Part (other than in Chapter 4) references to land associated with a monument (or to associated land) are to be interpreted in accordance with section 49(9).
- (5) In this Part references to a monument, in relation to the acquisition or transfer of any monument (whether under this Part or otherwise), include any interest in or right over the monument.
- (6) In this Part “monument of special historic interest” means –
  - (a) any scheduled monument, and
  - (b) any other monument wholly or mainly in Wales which the Welsh Ministers consider to be of public interest by reason of the historic, architectural, traditional, artistic or archaeological interest attaching to it.
- (7) But the reference to a monument in subsection (6)(b) does not include a monument situated in, on or under the bed of the sea below the low water mark.

### PART 3

#### BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

##### CHAPTER 1

##### LISTING BUILDINGS OF SPECIAL INTEREST

###### *List of buildings*

#### **76 Duty to maintain and publish list of buildings**

- (1) The Welsh Ministers must maintain a list of buildings which must include every building in Wales they consider to be of special architectural or historic interest, and must publish the up-to-date list.
- (2) The Welsh Ministers may amend the list by –
  - (a) adding a building,
  - (b) removing a building, or
  - (c) amending the entry for a building.
- (3) In considering whether a building should be included in the list, the Welsh Ministers may take into account not only the building itself but also –
  - (a) any way in which the exterior of the building contributes to the architectural or historic interest of any group of buildings of which it forms part, and
  - (b) the desirability of preserving any artificial feature of the building on the ground of its architectural or historic interest.
- (4) In subsection (3)(b) “artificial feature” means any feature of the building consisting of a structure or artificial object that –
  - (a) is fixed to the building, or

- (b) forms part of the land and is within the curtilage of the building.
- (5) In this Act “listed building” means a building included in the list maintained under this section, and includes –
  - (a) any structure or artificial object that is fixed to the building and ancillary to it;
  - (b) any other structure or artificial object that –
    - (i) forms part of the land and has done so since before 1 July 1948, and
    - (ii) was within the curtilage of the building, and ancillary to it, on the date on which the building was first included in the list, or on 1 January 1969, whichever was later.
- (6) In this Part –
  - (a) “listing” a building means amending the list by adding the building;
  - (b) “de-listing” a building means amending the list by removing the building.

## **77 Notification of listing or de-listing of building**

- (1) As soon as possible after the Welsh Ministers list or de-list a building, they must serve notice that they have done so on –
  - (a) every owner and occupier of the building, and
  - (b) every relevant local authority in whose area the building is situated.
- (2) Where the Welsh Ministers have listed a building –
  - (a) the notice must specify the date on which they did so, and
  - (b) they must include with the notice a copy of the entry for the building in the list maintained under section 76.
- (3) A copy of an entry served under this section is a local land charge, and for the purposes of the Local Land Charges Act 1975 (c. 76) the county council or county borough council on which the copy is served is the originating authority as respects the charge.
- (4) A relevant local authority must keep available for public inspection –
  - (a) copies of entries in the list that have been served on it under this section, and
  - (b) copies of any parts of the list that were deposited with it under section 2(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) or a corresponding provision of any earlier Act, so far as those parts remain up-to-date.
- (5) The copies must be available for inspection –
  - (a) free of charge,
  - (b) at reasonable times, and
  - (c) at a convenient place.
- (6) In this section “relevant local authority” means –
  - (a) a county council or county borough council;
  - (b) a National Park authority;

- (c) a joint planning board.

*Proposals to list and de-list buildings: consultation and interim protection*

## **78 Consultation before listing or de-listing building**

- (1) Where the Welsh Ministers are proposing to list or de-list a building, they must serve a notice on the persons mentioned in subsection (2) which—
  - (a) sets out the proposed amendment to the list maintained under section 76, and
  - (b) invites those persons to make written representations about the proposal.
- (2) The persons are—
  - (a) every owner and occupier of the building,
  - (b) every planning authority in whose area the building is situated, and
  - (c) any other persons the Welsh Ministers consider appropriate as having special knowledge of, or special interest in, buildings of architectural or historic interest.
- (3) A notice under subsection (1) must—
  - (a) specify the period within which representations may be made, and
  - (b) in the case of a proposal to list a building—
    - (i) include a statement of the effect of section 79 (interim protection), and
    - (ii) specify the date on which interim protection takes effect under that section.
- (4) The period specified under subsection (3)(a) must be at least 28 days beginning with the day the notice is served.

## **79 Interim protection pending decision whether to list building**

- (1) This section applies where the Welsh Ministers serve notice under section 78(1) of a proposal to list a building.
- (2) From the beginning of the day specified under section 78(3)(b)(ii), this Act (except sections 118 and 137 to 142) and the Town and Country Planning Act 1990 (c. 8) have effect in relation to the building as if it were a listed building.
- (3) The protection conferred by virtue of subsection (2) is referred to in this Part as “interim protection”.
- (4) The Welsh Ministers must—
  - (a) publish a list of the buildings subject to interim protection, and
  - (b) provide a copy of the notice served under section 78(1) in respect of such a building to any person who requests one.
- (5) Interim protection ends in relation to a building—
  - (a) where the Welsh Ministers list the building, at the beginning of the day specified in the notice under section 77(1);

- (b) where the Welsh Ministers decide not to list the building, at the beginning of the day specified in a notice served on—
  - (i) every owner and occupier of the building, and
  - (ii) every planning authority in whose area the building is situated.
- (6) Schedule 7 makes provision about the effect of interim protection coming to an end under subsection (5)(b).
- (7) This section does not apply to a building which is a scheduled monument.

## **80 Compensation for loss or damage caused by interim protection**

- (1) This section applies where interim protection ends in relation to a building because the Welsh Ministers serve notice under section 79(5)(b) that they have decided not to list the building.
- (2) Any person who had an interest in the building when the interim protection took effect is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any loss or damage suffered by the person that is directly attributable to the interim protection.
- (3) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by the need to stop or cancel works to the building because of the interim protection.
- (4) A claim for compensation under this section must be made in writing within 6 months beginning when the interim protection ends.
- (5) Where the building was previously subject to temporary listing under section 83 which ended because the interim protection took effect—
  - (a) the reference in subsection (2) to the time when the interim protection took effect is to be treated as a reference to the time when the temporary listing took effect;
  - (b) the reference in that subsection to loss or damage directly attributable to the interim protection includes loss or damage directly attributable to the temporary listing;
  - (c) the reference in subsection (3) to the need to stop or cancel works because of the interim protection includes the need to do so because of the temporary listing.

### *Review of listing decisions*

## **81 Review of decision to list building**

- (1) Where the Welsh Ministers list a building, the notice under section 77(1) must state that any owner or occupier of the building may make an application to the Welsh Ministers requesting a review of the decision.
- (2) An application may be made only on the ground that the building is not of special architectural or historic interest.
- (3) Where an owner or occupier makes an application for a review, the Welsh Ministers must appoint a person to—



- (a) carry out the review, and
  - (b) make a decision on the review.
- (4) The Welsh Ministers may by regulations specify descriptions of cases in which they, instead of a person appointed by them, must carry out and make a decision on a review.
- (5) The Welsh Ministers must make any amendment to the list maintained under section 76 they consider appropriate to give effect to a decision on a review.
- (6) The Welsh Ministers may by regulations amend subsection (2) to—
- (a) add a ground of review;
  - (b) modify a ground of review;
  - (c) remove a ground of review.

## **82 Supplementary provision about reviews**

- (1) The Welsh Ministers must by regulations make provision about—
- (a) the form and way in which an application under section 81 must be made;
  - (b) the information that must be provided to, or may be required by, the Welsh Ministers in connection with an application;
  - (c) the period within which an application must be made.
- (2) A review under section 81 must be carried out in one or more of the following ways (as determined by the person carrying out the review)—
- (a) by means of a local inquiry;
  - (b) by means of a hearing;
  - (c) on the basis of written representations.
- (3) Where a review is carried out by a person appointed by the Welsh Ministers, the appointed person has the same powers and duties in relation to the review as the Welsh Ministers have under—
- (a) any regulations made under section 175 (procedural requirements), and
  - (b) sections 180 and 181 (costs of Welsh Ministers and parties).
- (4) Where a review is carried out by means of a local inquiry, section 177 (power to require evidence) applies to the inquiry as it applies to an inquiry held under Part 5.
- (5) The Welsh Ministers may by regulations make further provision in connection with reviews under section 81.
- (6) Schedule 2 makes further provision about the functions of persons appointed by the Welsh Ministers to carry out reviews under section 81.

*Temporary listing***83 Service of temporary listing notice**

- (1) This section applies if a planning authority considers that a building in its area which is not a listed building (and is not treated as one by virtue of section 79(2)) is –
  - (a) of special architectural or historic interest, and
  - (b) in danger of being demolished or of being altered in a way that would affect its character as a building of special architectural or historic interest.
- (2) The authority may serve a temporary listing notice on every owner and occupier of the building.
- (3) A temporary listing notice is a notice which –
  - (a) states that the planning authority –
    - (i) considers the building to be of special architectural or historic interest, and
    - (ii) has requested the Welsh Ministers to consider listing it, and
  - (b) explains the effect of subsection (4), section 85 and Schedule 7.
- (4) As soon as a temporary listing notice has been served on every owner and occupier of the building to which it relates, this Act (except sections 118 and 137 to 142) and the Town and Country Planning Act 1990 (c. 8) have effect in relation to the building as if it were a listed building.
- (5) The protection conferred by virtue of subsection (4) is referred to in this Part as “temporary listing”.
- (6) This section and section 84 do not apply to –
  - (a) a building which is a scheduled monument, or
  - (b) an exempt religious building.

**84 Temporary listing in urgent cases**

- (1) This section applies if a planning authority considers it urgent that temporary listing should take effect in relation to a building in its area.
- (2) The authority may, instead of serving a temporary listing notice on each owner and occupier of the building –
  - (a) attach the notice conspicuously to the building, or
  - (b) if it is not reasonably practicable to attach the notice to the building, or the authority considers that doing so might damage the building, display the notice in a prominent place as near to the building as is reasonably practicable.
- (3) Attaching or displaying a notice in accordance with subsection (2) is to be treated for the purposes of section 83(4) as serving the notice on every owner and occupier of the building.

- (4) The notice must explain that by virtue of having been attached or displayed in accordance with subsection (2) the notice is treated as having been served for those purposes.

## **85 End of temporary listing**

- (1) Temporary listing of a building has effect until the end of the 6 months beginning with the day it takes effect under section 83(4), unless it ends under subsection (2) or (3).
- (2) If the Welsh Ministers serve notice under section 78(1) of a proposal to list the building, temporary listing ends when interim protection takes effect in relation to the building (and the building continues to be treated as if it were a listed building for certain purposes by virtue of section 79(2)).
- (3) If the Welsh Ministers notify the planning authority in writing that they do not intend to consult under section 78 on a proposal to list the building, temporary listing ends at the beginning of the day specified in the notification.
- (4) Schedule 7 makes provision about the effect of temporary listing coming to an end –
  - (a) at the end of the 6-month period mentioned in subsection (1), or
  - (b) because the Welsh Ministers give notification under subsection (3) that they do not intend to consult on a proposal to list the building.
- (5) If temporary listing ends in relation to a building because the Welsh Ministers notify the planning authority that they do not intend to consult on a proposal to list the building –
  - (a) the authority must immediately give notice of that decision to every owner and occupier of the building;
  - (b) the authority may not serve another temporary listing notice in respect of the building during the 12 months beginning with the day the Welsh Ministers give the notification.

## **86 Compensation for loss or damage caused by temporary listing**

- (1) This section applies where temporary listing ends in relation to a building –
  - (a) at the end of the 6-month period mentioned in section 85(1), or
  - (b) because the Welsh Ministers give notification under section 85(3) that they do not intend to consult on a proposal to list the building.
- (2) Any person who had an interest in the building when the temporary listing took effect is entitled, on making a claim to the planning authority in whose area the building is situated, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the temporary listing.
- (3) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by the need to stop or cancel works to the building because of the temporary listing.
- (4) A claim for compensation under this section must be made in writing within 6 months beginning when the temporary listing ends.

*Buildings not intended to be listed***87 Certificate that Welsh Ministers do not intend to list building**

- (1) The Welsh Ministers may, on the application of any person, issue a certificate stating that they do not intend to list a building.
- (2) During the 5 years beginning with the day the certificate is issued –
  - (a) the Welsh Ministers may not list the building or serve notice under section 78(1) of a proposal to list the building;
  - (b) a planning authority in whose area the building is situated may not serve a temporary listing notice in relation to the building.
- (3) An applicant for a certificate must give notice of the application to every planning authority in whose area the building is situated at the same time as submitting the application to the Welsh Ministers.

**CHAPTER 2****CONTROL OF WORKS AFFECTING LISTED BUILDINGS***Authorisation of works***88 Requirement for works to be authorised**

- (1) A person must not carry out works to which this section applies, or cause such works to be carried out, unless the works are authorised under section 89.
- (2) This section applies to –
  - (a) works for the alteration or extension of a listed building in any way that would affect its character as a building of special architectural or historic interest;
  - (b) works for the demolition of a listed building.
- (3) But this section does not apply to –
  - (a) works in relation to a building which is a scheduled monument (but see section 11);
  - (b) works in relation to an exempt religious building;
  - (c) works for the demolition of a building closed for regular public worship, or a part of such a building, in accordance with provision made under Part 6 of the Mission and Pastoral Measure 2011 (No. 3) by a pastoral church buildings scheme or a pastoral (church buildings disposal) scheme;
  - (d) works carried out by or on behalf of the Crown in the circumstances set out in paragraphs (a) to (d) of section 117(4) (emergency works).

**89 Authorisation of works by listed building consent**

- (1) Works to which section 88 applies are authorised if –
  - (a) written consent to carry them out has been granted by the planning authority in whose area the building is situated or the Welsh Ministers, and
  - (b) the works are carried out in accordance with the terms of the consent (including any conditions attached to it).

- (2) Where –
  - (a) works to which section 88 applies have been carried out without being authorised under subsection (1), and
  - (b) the planning authority or the Welsh Ministers grant written consent for the works, the works are authorised from the grant of that consent.
- (3) Consent under subsection (1) or (2) is referred to in this Act as listed building consent.

*Applications for listed building consent*

**90 Applying for listed building consent**

- (1) An application for listed building consent must be made to the planning authority in whose area the listed building is situated, unless it is made to the Welsh Ministers in accordance with –
  - (a) regulations made under section 105 (applications by planning authorities or the Crown),
  - (b) section 106 (applications relating to urgent works on Crown land),
  - (c) section 305 or 306 of the Housing Act 1985 (c. 68) (applications by local housing authorities for consent to demolish buildings in connection with acquisition of land for clearance), or
  - (d) any other enactment.
- (2) An application for listed building consent must contain –
  - (a) enough information to identify the listed building to which it relates, including a plan,
  - (b) any other plans and drawings that are necessary to describe the works to which it relates, and
  - (c) any other information required by the planning authority or the Welsh Ministers (as the case may be).
- (3) The Welsh Ministers may by regulations make provision about –
  - (a) the form and content of an application (which may include provision for using a form to be published or provided by the Welsh Ministers or another person);
  - (b) how an application must be made.
- (4) The Welsh Ministers must by regulations require a person who makes an application of a description specified in the regulations to include with the application a statement about –
  - (a) how the works will affect the character of the listed building as a building of special architectural or historic interest, and
  - (b) either or both of the following (as specified in the regulations) –
    - (i) the design principles that have been applied to the works;
    - (ii) how issues relating to access to the building have been dealt with.
- (5) The Welsh Ministers may by regulations make provision about –

- (a) the form and content of a statement required under subsection (4);
  - (b) other documents or materials that must be included with an application.
- (6) A planning authority must not consider an application made to it for listed building consent if the application fails to comply with a requirement imposed by or under this section.

## **91 Notice of application to owners of building**

- (1) The Welsh Ministers may by regulations require an applicant for listed building consent –
- (a) to give notice of the application to every person (other than the applicant) who on a date specified in the regulations is an owner of any part of the listed building to which the application relates, and
  - (b) to include with the application a certificate issued by the applicant stating that any requirements of the regulations have been complied with.
- (2) The regulations may make provision about –
- (a) the form and content of a notice or certificate (which may include provision for using a form to be published or provided by the Welsh Ministers or another person);
  - (b) how notice must be given (which may include provision requiring it to be published).
- (3) An application for listed building consent must not be considered if any requirements imposed under subsection (1) or (2) have not been complied with.
- (4) The Welsh Ministers may by regulations provide that, where notice has been given of an application in accordance with requirements imposed under those subsections –
- (a) the application must not be determined during a period specified in the regulations;
  - (b) the planning authority or the Welsh Ministers must, in determining the application, take account of representations made during that period by any person who is an owner of any part of the listed building.
- (5) It is an offence for a person in purported compliance with a requirement imposed under subsection (1) or (2) –
- (a) to issue a certificate containing a statement which the person knows to be false or misleading in a material respect, or
  - (b) to recklessly issue a certificate containing a statement which is false or misleading in a material respect.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) In this section “owner” means –
- (a) an owner of the freehold estate, or
  - (b) a tenant under a lease granted or extended for a fixed term that has at least 7 years left to run.

*Dealing with applications for consent***92 Procedure for dealing with application**

- (1) A planning authority must deal with an application for listed building consent made to the authority unless –
  - (a) it is required not to consider the application under section 90(6) or 91(3), or refuses to do so under section 93 (similar applications), or
  - (b) it is required to refer the application to the Welsh Ministers under section 94.
- (2) The Welsh Ministers may by regulations –
  - (a) impose requirements relating to publicity for applications for listed building consent made to planning authorities or the Welsh Ministers;
  - (b) impose requirements for consultation or notification in relation to applications;
  - (c) provide that an application must not be determined during a period specified in the regulations;
  - (d) require planning authorities or the Welsh Ministers, in determining applications, to take account of responses from persons consulted or notified;
  - (e) make provision about the time within which a planning authority or the Welsh Ministers must deal with an application.
- (3) The Welsh Ministers may direct a planning authority to notify persons specified in the direction of –
  - (a) an application made to the authority for listed building consent, and
  - (b) the decision taken by the authority on the application.
- (4) A direction may relate to –
  - (a) a particular case, or
  - (b) cases of a description specified in the direction.

**93 Power to refuse to consider similar applications**

- (1) A planning authority may refuse to consider an application for listed building consent if the first and second conditions are met.
- (2) The first condition is that in the 2 years ending with the day the authority receives the application any of the following has occurred –
  - (a) the Welsh Ministers have refused a similar application for listed building consent referred to them under section 94,
  - (b) the Welsh Ministers have dismissed –
    - (i) an appeal under section 100(2) against the refusal of a similar application for listed building consent, or
    - (ii) an appeal under section 100(3) relating to a similar application, or
  - (c) the planning authority has refused two or more similar applications for listed building consent and in each case –

- (i) there has been no appeal to the Welsh Ministers, or
  - (ii) any appeal to the Welsh Ministers has been withdrawn.
- (3) The second condition is that the planning authority considers that there has been no significant change in any relevant considerations since –
  - (a) the Welsh Ministers refused the similar application, in a case falling within subsection (2)(a),
  - (b) the Welsh Ministers dismissed the appeal, in a case falling within subsection (2)(b), or
  - (c) the planning authority most recently refused a similar application, in a case falling within subsection (2)(c).
- (4) For the purposes of this section an application is similar to another application if (and only if) the planning authority considers that the listed building and works to which the applications relate are the same or substantially the same.

#### **94 Reference of application to Welsh Ministers**

- (1) The Welsh Ministers may direct a planning authority to refer an application for listed building consent to them for determination instead of dealing with the application itself.
- (2) A direction may relate to a particular application, or to applications in relation to buildings specified in the direction.
- (3) A planning authority must refer an application to which a direction under this section applies to the Welsh Ministers.
- (4) A planning authority must refer an application for listed building consent to the Welsh Ministers for determination, without being directed to do so, if the consent is sought in consequence of proposals included in an application for an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders relating to construction or operation of railways, tramways, inland waterways etc.).
- (5) Chapter 2 of Part 5 makes provision about the procedure for the consideration of applications referred to the Welsh Ministers under this section.
- (6) The decision of the Welsh Ministers on an application is final.

#### **95 Notification to Welsh Ministers before granting consent**

- (1) A planning authority to which an application for listed building consent is made may not grant consent unless –
  - (a) it has notified the Welsh Ministers of the application, giving details of the works for which consent is sought, and
  - (b) the first or second condition is met.
- (2) The first condition is that the 28 days beginning with the day the Welsh Ministers were notified have ended without the Welsh Ministers either –
  - (a) directing the authority to refer the application to them under section 94, or
  - (b) notifying the authority that they need more time to consider whether to give a direction under that section.



- (3) The second condition is that the Welsh Ministers have notified the authority that they do not intend to direct it to refer the application to them.
- (4) The Welsh Ministers may by regulations provide that subsection (1) does not apply to applications for listed building consent of a description specified in the regulations.
- (5) The Welsh Ministers may direct a planning authority –
  - (a) that subsection (1) is not to apply to an application to the authority for listed building consent, or
  - (b) that subsection (1) is to apply to an application to the authority despite any provision made by regulations under subsection (4) or by a direction under paragraph (a).
- (6) A direction may relate to –
  - (a) a particular application for listed building consent, or
  - (b) applications of a description specified in the direction,and has effect in relation to any application that the authority has not determined.
- (7) The Welsh Ministers may specify a description of applications under subsection (4) or (6)(b) by reference to the opinion of any person, the availability of specialist advice in relation to the applications, or any other circumstance.

## **96 Grant or refusal of consent**

- (1) On determining an application for listed building consent, a planning authority or the Welsh Ministers may grant or refuse consent.
- (2) In considering whether to grant listed building consent, a planning authority or the Welsh Ministers must have special regard to the desirability of preserving –
  - (a) the listed building to which the application relates,
  - (b) the setting of the building, and
  - (c) any features of special architectural or historic interest the building possesses.
- (3) Listed building consent has effect for the benefit of the listed building and the land on which it is situated, and of all persons for the time being interested in the building and land; but this is subject to the terms of the consent.

*Grant of listed building consent subject to conditions*

## **97 Power to grant consent subject to conditions**

- (1) Listed building consent may be granted subject to conditions.
- (2) A condition may, for example, require –
  - (a) particular features of the listed building to be preserved, either as part of it or after severance from it;
  - (b) any damage caused to the building by the works to be made good after the works are completed;

- (c) the building or any part of it to be reconstructed after any works are carried out, using original materials so far as practicable and making any alterations to the interior of the building specified in the conditions.
- (3) Consent may also be granted subject to a condition requiring specified details of the works (whether or not set out in an application for consent) to be approved later.
- (4) A condition imposed under subsection (3) must –
  - (a) in the case of consent granted by a planning authority, require the approval of that authority;
  - (b) in the case of consent granted by the Welsh Ministers, specify whether the approval required is that of the planning authority or the Welsh Ministers.
- (5) Consent for the demolition of a listed building must be granted subject to a condition that the works must not start until –
  - (a) notice of the proposal to demolish the building has been given to the Royal Commission on the Ancient and Historical Monuments of Wales, and
  - (b) after the giving of that notice, the Royal Commission –
    - (i) has been given reasonable access to the building for at least 1 month for the purpose of recording it, or
    - (ii) has stated in writing that it has completed its recording of the building or does not wish to record it.
- (6) If consent for the demolition of a listed building is granted without the condition required by subsection (5), it is to be treated as having been granted subject to that condition.
- (7) Consent for the demolition of a listed building may also be granted subject to a condition that the works must not start until –
  - (a) a contract for works to redevelop the site has been made, and
  - (b) planning permission has been granted for those redevelopment works.
- (8) Subsections (5) and (6) do not prevent the imposition of other conditions for the purpose of enabling a listed building to be recorded.
- (9) The Welsh Ministers may by regulations replace the references in subsection (5) to the Royal Commission on the Ancient and Historical Monuments of Wales with references to another body.

## **98 Condition about period within which works must start**

- (1) Listed building consent must be granted subject to the condition that the works to which it relates must start before the end of a period which is specified in the condition and begins with the day the consent is granted.
- (2) If consent is granted without the condition required by subsection (1), it is to be treated as having been granted subject to the condition that the works to which it relates must start within 5 years beginning with the day it was granted.
- (3) This section does not apply to –

- (a) consent under section 89(2) (consent for works already carried out);
- (b) consent granted by a listed building partnership agreement (see section 113).

**99 Application for variation or removal of conditions**

- (1) Where listed building consent has been granted subject to conditions, any person interested in the listed building may apply for the variation or removal of the conditions.
- (2) The application must indicate what variation or removal of conditions is applied for.
- (3) Sections 90 to 95 (except section 90(4) and (5)(a)) apply to an application under this section as they apply to an application for listed building consent.
- (4) On an application under this section the planning authority or the Welsh Ministers may, in addition to varying or removing the conditions of the consent, impose new conditions that are consequential on the variation or removal.
- (5) This section does not apply to consent granted by a listed building partnership agreement.

*Appeals to the Welsh Ministers*

**100 Right to appeal against planning authority decision or failure to make decision**

- (1) This section applies where an application has been made to a planning authority for –
  - (a) listed building consent,
  - (b) the variation or removal of conditions of listed building consent, or
  - (c) approval of details of works under a condition of listed building consent.
- (2) The applicant may appeal to the Welsh Ministers if the planning authority –
  - (a) refuses the application, or
  - (b) grants the application subject to conditions or, in the case of an application for the variation or removal of conditions, grants it and imposes new conditions.
- (3) The applicant may also appeal to the Welsh Ministers if the planning authority has done none of the following within the determination period –
  - (a) given notice to the applicant of its decision on the application, or
  - (b) in the case of an application for listed building consent or for the variation or removal of conditions, given notice to the applicant that it has –
    - (i) exercised its power under section 93 to refuse to consider the application, or
    - (ii) referred the application to the Welsh Ministers under section 94.
- (4) In subsection (3) “the determination period” means –
  - (a) the period specified in regulations made by the Welsh Ministers, or

- (b) a longer period agreed in writing between the applicant and the planning authority.

#### **101 Procedure for making appeal**

- (1) An appeal under section 100 must be made by serving a notice of appeal on the Welsh Ministers.
- (2) The grounds of appeal stated in the notice may include (alone or with other grounds) –
  - (a) a claim that the building to which the appeal relates is not of special architectural or historic interest and ought to be de-listed, or
  - (b) in the case of a building subject to interim protection or temporary listing, a claim that the building should not be listed.
- (3) The Welsh Ministers may by regulations make provision about –
  - (a) the form of a notice of appeal (which may include provision for using a form to be published or provided by the Welsh Ministers or another person);
  - (b) information that must be included with a notice of appeal;
  - (c) the way in which, and period within which, a notice of appeal must be served (which may include provision enabling the Welsh Ministers to extend the period).
- (4) Section 91 (notice to owners of building) applies in relation to appeals under section 100 relating to applications for listed building consent or for the variation or removal of conditions, but as if references to an application and an applicant were references to an appeal and an appellant.
- (5) The period specified by regulations under subsection (3)(c) must be at least 28 days beginning with the day after –
  - (a) in the case of an appeal under subsection (2) of section 100, the day the applicant receives notice of the decision;
  - (b) in the case of an appeal under subsection (3) of that section, the end of the determination period (which has the same meaning as in that subsection).

#### **102 Restriction on varying application after service of notice of appeal**

- (1) Once notice of an appeal under section 100 has been served, the application to which the appeal relates may not be varied except in circumstances specified in regulations made by the Welsh Ministers.
- (2) Where an application is varied under this section, the Welsh Ministers may direct that further consultation must be carried out in relation to the application.

#### **103 Decision on application after service of notice of appeal**

- (1) This section applies if a person who has made an application for listed building consent appeals under section 100(3) (failure to give notice of decision).
- (2) The Welsh Ministers must not determine the appeal before the end of the period which is specified in regulations made by the Welsh Ministers and begins with the day the notice of appeal is served.

- (3) The planning authority may give notice of its decision on the application to which the appeal relates at any time before the end of that period.
- (4) If the authority gives notice in accordance with subsection (3) that its decision is to refuse the application –
  - (a) the appeal must be treated as an appeal under section 100(2) against the refusal, and
  - (b) the Welsh Ministers must give the appellant the opportunity to revise the grounds of appeal.
- (5) If the authority gives notice in accordance with subsection (3) that its decision is to grant the application subject to conditions, the Welsh Ministers must give the appellant the opportunity –
  - (a) to proceed with the appeal as an appeal under section 100(2) against the grant of the application subject to conditions, and
  - (b) to revise the grounds of the appeal.

#### **104 Determination of appeal**

- (1) On an appeal under section 100 the Welsh Ministers may –
  - (a) allow or dismiss the appeal, or
  - (b) reverse or vary any part of the planning authority's decision on the application to which the appeal relates (whether or not the appeal relates to that part),and may deal with the application as if it had been made to them.
- (2) Where the appeal was made under section 100(3) (failure to give notice of decision) and the planning authority has not given notice under section 103(3), it is to be assumed for the purposes of subsection (1) that the authority decided to refuse the application.
- (3) On an appeal under section 100 the Welsh Ministers may also exercise their power under section 76 to de-list the building to which the appeal relates.
- (4) Chapter 2 of Part 5 makes provision about the procedure for the consideration of appeals (including provision for them to be determined by persons appointed by the Welsh Ministers).
- (5) The decision of the Welsh Ministers on an appeal is final.

#### *Special cases*

#### **105 Applications by planning authorities and the Crown**

- (1) The Welsh Ministers may by regulations provide that any provision made by or under this Act is not to apply, or is to apply with modifications, to an application mentioned in subsection (2) that is made –
  - (a) by a planning authority, or
  - (b) by or on behalf of the Crown.
- (2) The applications referred to in subsection (1) are applications for –
  - (a) listed building consent,
  - (b) the variation or removal of conditions of listed building consent, or

(c) approval of details of works under a condition of listed building consent.

- (3) The regulations may, in particular, provide for an application to be made to the Welsh Ministers.

#### 106 Applications relating to urgent works on Crown land

- (1) The appropriate Crown authority may make an application for listed building consent to the Welsh Ministers (instead of to a planning authority) if –
- (a) the listed building to which the application relates is on Crown land, and
  - (b) the appropriate Crown authority certifies –
    - (i) that the works for which consent is sought are of national importance, and
    - (ii) that it is necessary that the works are carried out as a matter of urgency.
- (2) Before making the application, the appropriate Crown authority must publish in one or more newspapers circulating in the locality of the listed building a notice –
- (a) describing the proposed works, and
  - (b) stating that it proposes to make the application to the Welsh Ministers under this section.
- (3) Where the appropriate Crown authority makes an application under this section –
- (a) it must give the Welsh Ministers a statement of its grounds for making the application;
  - (b) the Welsh Ministers may require it to give them any further information they consider necessary to enable them to determine the application.
- (4) As soon as practicable after receiving a document or other material by virtue of subsection (3), the Welsh Ministers must make a copy of the document or other material available for inspection by the public in the locality of the proposed works.
- (5) The Welsh Ministers must, in accordance with any requirements imposed by regulations, publish notice of the application and of the fact that documents and other material are available for inspection.
- (6) The Welsh Ministers must consult the following persons about the application –
- (a) the planning authority in whose area the listed building is situated, and
  - (b) any other person that may be specified in regulations.
- (7) Chapter 2 of Part 5 makes provision about the procedure for the consideration of applications made to the Welsh Ministers under this section.
- (8) Subsection (4) does not apply to the extent that a document or other material is subject to a direction under section 178 (restriction of access to evidence on national security grounds).
- (9) The decision of the Welsh Ministers on an application is final.
- (10) In this section references to regulations are to regulations made by the Welsh Ministers.

*Modification and revocation of listed building consent***107 Modification and revocation of consent**

- (1) Where listed building consent has been granted on an application or appeal under this Part, the planning authority in whose area the listed building is situated or the Welsh Ministers may by order modify or revoke the consent to any extent.
- (2) An order modifying or revoking listed building consent for any works may be made at any time before the works are completed, but does not affect consent for works carried out before the order takes effect.
- (3) In Schedule 8 –
  - (a) Part 1 makes provision about the procedures that must be followed before an order made by a planning authority under this section takes effect (either with or without confirmation by the Welsh Ministers);
  - (b) Part 2 makes provision about the procedure that must be followed before the Welsh Ministers make an order under this section.

**108 Compensation where consent is modified or revoked**

- (1) This section applies where listed building consent is modified or revoked by an order under section 107 that is –
  - (a) made by a planning authority and confirmed by the Welsh Ministers, or
  - (b) made by the Welsh Ministers.
- (2) Any person interested in the listed building to which the consent relates is entitled, on making a claim to the planning authority, to be paid compensation by the authority for –
  - (a) any expenditure incurred by the person in carrying out works that become abortive because of the modification or revocation of the consent;
  - (b) any other loss or damage suffered by the person that is directly attributable to the modification or revocation.
- (3) For the purposes of this section expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works.
- (4) Subject to that, no compensation is payable under this section in respect of –
  - (a) works carried out before the grant of the listed building consent that is modified or revoked, or
  - (b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the consent was granted.
- (5) A claim for compensation under this section must be made in writing within 6 months beginning with the day the modification or revocation of the consent takes effect.
- (6) In subsection (2) “the planning authority” means –

- (a) the planning authority that made the order under section 107, or
- (b) if the order was made by the Welsh Ministers, the planning authority in whose area the listed building to which the order relates is situated.

*Right of owner of listed building to require purchase of interest*

**109 Purchase notice where consent is refused, granted subject to conditions, modified or revoked**

- (1) This section applies where –
  - (a) on an application for listed building consent, consent is refused or is granted subject to conditions, or
  - (b) an order under section 107 modifies or revokes listed building consent.
- (2) If an owner of the listed building to which the application or order relates claims –
  - (a) that the first set of conditions is met in relation to the building, and
  - (b) that the first and second sets of conditions are met in relation to any associated land, the owner may serve a purchase notice on the planning authority in whose area the listed building is situated.
- (3) A purchase notice is a notice requiring the planning authority to purchase the owner’s interest in the listed building and associated land.
- (4) The first set of conditions is –
  - (a) that the listed building and associated land in respect of which the notice is served are unusable in their existing state,
  - (b) in a case where listed building consent has been granted subject to conditions or has been modified by the imposition of conditions, that the building and land cannot be made usable by carrying out the works to which the consent relates in accordance with the conditions, and
  - (c) in any case, that the building and land cannot be made usable by carrying out any other works for which listed building consent has been granted or for which the planning authority or the Welsh Ministers have undertaken to grant listed building consent.
- (5) The second set of conditions is –
  - (a) that the use of the associated land is substantially inseparable from the use of the listed building, and
  - (b) that the associated land ought to be treated, together with the building, as a single holding.
- (6) In this section and Schedule 9 –
 

“associated land” (*“tir cysylltiedig”*), in relation to a listed building, means land which –

  - (a) includes, adjoins or is adjacent to the building, and
  - (b) is owned with the building;



“usable” (“*defnyddiadwy*”), in relation to a listed building or associated land, means capable of reasonably beneficial use.

- (7) In determining whether a listed building and associated land are usable in their existing state, a prospective use of the building or land must be ignored if it would involve –
- (a) carrying out works requiring listed building consent which has not been granted and which neither a planning authority nor the Welsh Ministers have undertaken to grant, or
  - (b) carrying out development for which planning permission has not been granted and for which neither a planning authority nor the Welsh Ministers have undertaken to grant permission.
- (8) A listed building is not unusable in its existing state if –
- (a) the existing state of the building was caused by a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted, and
  - (b) the building could be made usable by taking steps that are or could be required by an enforcement notice under section 123.

#### **110 Purchase notice in respect of Crown land**

- (1) The owner of a private interest in Crown land may not serve a purchase notice in respect of that interest unless –
- (a) the owner has offered to dispose of the interest to the appropriate Crown authority for a price that is equal to (and if not agreed, is to be determined in the same way as) the compensation that would be payable for the interest if it were acquired in pursuance of a purchase notice, and
  - (b) the appropriate Crown authority has refused the offer.
- (2) Only the appropriate Crown authority may serve a purchase notice in respect of a Crown interest or Duchy interest in land which –
- (a) forms part of the Crown Estate,
  - (b) belongs to His Majesty in right of His private estates,
  - (c) belongs to His Majesty in right of the Duchy of Lancaster, or
  - (d) belongs to the Duchy of Cornwall.
- (3) A purchase notice may not be served in respect of a Crown interest or Duchy interest in any other land.

#### **111 Further provision about service of purchase notice**

- (1) A purchase notice must be served within 12 months beginning with –

- (a) in the case of a notice relating to a decision to refuse listed building consent or grant it subject to conditions, the day the decision is made, or
  - (b) in the case of a notice relating to an order under section 107 modifying or revoking listed building consent, the day the order takes effect.
- (2) In a case where the Welsh Ministers determine an appeal against a decision of a planning authority to refuse listed building consent or grant it subject to conditions, the reference in subsection (1)(a) to the day the decision is made is to be read as a reference to the day the Welsh Ministers determine the appeal.
- (3) The Welsh Ministers may at any time extend the period for serving a purchase notice in a particular case, if they are satisfied that there are good reasons for doing so.
- (4) The Welsh Ministers may by regulations make provision about how a purchase notice must be served.
- (5) Where a repairs notice has been served on an owner of a listed building under section 138, the owner is not entitled to serve a purchase notice in respect of the building –
  - (a) before the end of 3 months beginning with the day the repairs notice is served, or
  - (b) if during that period the compulsory acquisition of the building is started under section 137, unless the compulsory acquisition is discontinued.
- (6) An owner of a listed building who has served a purchase notice may not amend the notice; but that does not prevent the owner serving a further purchase notice relating to the same decision or order.
- (7) If an owner serves a further purchase notice relating to the same decision or order, the earlier notice is to be treated as withdrawn unless the later notice states that the owner does not intend to withdraw it.
- (8) For the purposes of subsection (5) –
  - (a) a compulsory acquisition is started –
    - (i) by a planning authority when it serves the notice required by section 12 of the Acquisition of Land Act 1981 (c. 67);
    - (ii) by the Welsh Ministers when they serve the notice required by paragraph 3(1) of Schedule 1 to that Act;
  - (b) a compulsory acquisition is discontinued –
    - (i) in the case of an acquisition by a planning authority, when the compulsory purchase order is withdrawn or the Welsh Ministers decide not to confirm it;
    - (ii) in the case of an acquisition by the Welsh Ministers, when they decide not to make the compulsory purchase order.

**112 Action following service of purchase notice**

Schedule 9 makes provision about the action to be taken by planning authorities and the Welsh Ministers following the service of a purchase notice.

**CHAPTER 3****LISTED BUILDING PARTNERSHIP AGREEMENTS****113 Listed building partnership agreements**

- (1) A planning authority may make an agreement under this section with any owner of a listed building, or part of a listed building, situated in its area.
- (2) Any of the following persons may also be a party to the agreement (in addition to the owner and the authority) –
  - (a) the Welsh Ministers;
  - (b) any occupier of the building;
  - (c) any other person who has an interest in the building;
  - (d) any person involved in the management of the building;
  - (e) any other person the planning authority considers appropriate as having special knowledge of, or special interest in, the building or in buildings of architectural or historic interest more generally.
- (3) The Welsh Ministers may make an agreement under this section with any owner of a listed building or part of a listed building.
- (4) Any of the following persons may also be a party to the agreement (in addition to the owner and the Welsh Ministers) –
  - (a) any planning authority in whose area the building or part is situated;
  - (b) any occupier of the building;
  - (c) any other person who has an interest in the building;
  - (d) any person involved in the management of the building;
  - (e) any other person the Welsh Ministers consider appropriate as having special knowledge of, or special interest in, the building or in buildings of architectural or historic interest more generally.
- (5) An agreement under this section is referred to in this Act as a “listed building partnership agreement”.
- (6) A listed building partnership agreement may grant listed building consent under section 89(1) for specified works for the alteration or extension of the listed building to which the agreement relates.
- (7) Where a listed building partnership agreement grants listed building consent subject to conditions, the agreement must specify those conditions.
- (8) A listed building partnership agreement may also –

- (a) specify works that would or would not, in the view of the parties, affect the character of the listed building as a building of special architectural or historic interest;
  - (b) make provision about the maintenance and preservation of the building;
  - (c) make provision about the carrying out of specified works, or the doing of any specified thing, in relation to the building;
  - (d) provide for public access to the building and the provision of associated facilities, information or services to the public;
  - (e) restrict access to, or use of, the building;
  - (f) prohibit the doing of any specified thing in relation to the building;
  - (g) provide for a planning authority or the Welsh Ministers to make payments of specified amounts and on specified terms –
    - (i) for or towards the costs of any works provided for under the agreement, or
    - (ii) in consideration of any restriction, prohibition or obligation accepted by any other party to the agreement.
- (9) A listed building partnership agreement may relate to more than one listed building or part of a listed building, but only if the parties to the agreement include in relation to each building or part –
- (a) an owner of that building or part, and
  - (b) the planning authority in whose area that building or part is situated or the Welsh Ministers.
- (10) In this section –
- “owner” (“*perchennog*”), in relation to a listed building or part of a listed building, means –
- (a) an owner of the freehold estate in the building or part, or
  - (b) a tenant under a lease of the building or part granted or extended for a fixed term that has at least 7 years left to run;
- “specified” (“*penodedig*”) means specified or described in a listed building partnership agreement.

#### **114 Further provision about listed building partnership agreements**

- (1) A listed building partnership agreement must be in writing.
- (2) A listed building partnership agreement must –
  - (a) contain enough information to identify the listed building to which it relates, including a plan;
  - (b) contain any other plans and drawings that are necessary to describe any works to which it relates;
  - (c) specify the date on which it takes effect and its duration;

- (d) make provision for the parties to review the terms of the agreement at intervals specified in it;
  - (e) make provision for its variation (but this is subject to regulations under subsection (5));
  - (f) make provision for its termination (but this is subject to section 115).
- (3) A listed building partnership agreement may contain incidental and consequential provision.
- (4) The Welsh Ministers may by regulations specify other terms that must be included in a listed building partnership agreement.
- (5) The Welsh Ministers must by regulations make provision about –
- (a) the consultation that must take place before a listed building partnership agreement is made or varied;
  - (b) the publicity that must be given to a listed building partnership agreement before or after it is made or varied.
- (6) In considering whether to make a listed building partnership agreement that grants listed building consent, or vary an agreement so that it grants consent, a planning authority or the Welsh Ministers must have special regard to the desirability of preserving –
- (a) the listed building to which the agreement relates,
  - (b) the setting of the building, and
  - (c) any features of special architectural or historic interest the building possesses.
- (7) A listed building partnership agreement may not impose any obligation or liability, or confer any right, on a person who is not a party to the agreement; and listed building consent granted by such an agreement has effect only for the benefit of the parties to it.
- (8) The Welsh Ministers may by regulations –
- (a) disapply, or apply or reproduce with or without modifications, any provision of sections 90 to 104 (granting listed building consent) or Chapter 4 (enforcement) for the purposes of listed building partnership agreements, and
  - (b) provide for any other provision of this Act to apply with modifications that are consequential on provision made under paragraph (a).

## **115 Termination of agreement or provision of agreement**

- (1) A planning authority may by order terminate a listed building partnership agreement to which it is a party or any provision of such an agreement.
- (2) The Welsh Ministers may by order terminate a listed building partnership agreement (whether or not they are a party to it) or any provision of such an agreement.
- (3) An order under this section may contain supplementary, incidental, transitory, transitional or saving provision.

- (4) An order under this section terminating a provision which grants listed building consent for any works may be made at any time before the works are completed, but does not affect listed building consent for works carried out before the order takes effect.
- (5) In Schedule 10—
  - (a) Part 1 makes provision about the procedure that must be followed before an order made by a planning authority under this section takes effect;
  - (b) Part 2 makes provision about the procedure that must be followed before the Welsh Ministers make an order under this section.
- (6) The Welsh Ministers may by regulations amend Schedule 10, and the regulations may make consequential amendments to any other provision of this Act.

#### **116 Compensation where agreement or provision is terminated**

- (1) This section applies where a listed building partnership agreement, or any provision of such an agreement, is terminated by an order under section 115.
- (2) Any person is entitled, on making a claim to the planning authority, to be paid compensation by the authority for—
  - (a) any expenditure incurred by the person in carrying out works that become abortive because of the termination of the agreement or provision;
  - (b) any other loss or damage suffered by the person that is directly attributable to the termination.
- (3) For the purposes of this section expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works.
- (4) Subject to that, no compensation is payable under this section in respect of—
  - (a) works carried out before the listed building partnership agreement, or the relevant provision of the agreement, took effect, or
  - (b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the agreement or provision took effect.
- (5) A claim for compensation under this section must be made in writing within 6 months beginning with the day the termination of the agreement or provision takes effect.
- (6) In subsection (2) “the planning authority” means—
  - (a) the planning authority that made the order under section 115, or
  - (b) if the order was made by the Welsh Ministers, the planning authority in whose area the listed building, or the part of a listed building, to which the order relates is situated.

- (7) The Welsh Ministers may by regulations amend this section, and the regulations may make consequential amendments to any other provision of this Act.

#### CHAPTER 4

#### ENFORCEMENT OF CONTROLS RELATING TO LISTED BUILDINGS

##### *Unauthorised works and intentional damage: offences*

#### **117 Offence of carrying out unauthorised works or breaching condition of consent**

- (1) A person commits an offence if the person carries out, or causes to be carried out, works in relation to a listed building in breach of section 88 (requirement for works to be authorised).
- (2) A person also commits an offence if the person –
- (a) carries out, or causes to be carried out, works in relation to a listed building, and
  - (b) fails to comply with a condition subject to which listed building consent has been granted for the works.
- (3) Subsection (2) does not limit what may be an offence under subsection (1).
- (4) In proceedings against a person for an offence under this section, it is a defence for the person to prove that –
- (a) works were urgently necessary in the interests of safety or health or for the preservation of the building,
  - (b) it was not practicable to secure safety or health or the preservation of the building by carrying out works of repair or works to provide temporary support or shelter,
  - (c) the works carried out were limited to the minimum measures immediately necessary, and
  - (d) notice in writing justifying in detail the carrying out of the works was given to the planning authority in whose area the building is or was situated as soon as reasonably practicable.
- (5) In proceedings against a person for an offence under this section in relation to a building on which interim protection is conferred –
- (a) it is a defence for the person to prove that the person did not know, and could not reasonably have been expected to know, that the interim protection had been conferred, and
  - (b) where the defence is raised by a person on whom a notice should have been served under section 78(1), it is for the prosecution to prove that the notice was served on the person.
- (6) A person guilty of an offence under this section is liable –
- (a) on summary conviction, to a fine or imprisonment for a term not exceeding the applicable limit under section 224(1A)(b) of the Sentencing Code, or both;
  - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.

- (7) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

### **118 Offence of intentionally damaging listed building**

- (1) A person commits an offence if, with the intention of causing damage to a listed building, the person does anything or permits anything to be done –
- (a) which causes or is likely to result in damage to the building, and
  - (b) which the person would be entitled to do or permit were it not for this subsection.
- (2) Subsection (1) does not apply to –
- (a) works for which listed building consent has been granted;
  - (b) anything done in relation to a scheduled monument (but see section 58);
  - (c) works in relation to an exempt religious building;
  - (d) anything authorised by planning permission granted or treated as having been granted on an application under the Town and Country Planning Act 1990 (c. 8);
  - (e) anything for which development consent has been granted under the Planning Act 2008 (c. 29).
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If a person convicted of an offence under subsection (1) fails to take any reasonable steps that are necessary to prevent damage or further damage resulting from the offence, the person is guilty of a further offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding one tenth of level 3 on the standard scale for each day on which the failure continues.

#### *Temporary stop notices*

### **119 Power of planning authority to issue temporary stop notice**

- (1) A planning authority may issue a temporary stop notice if it considers –
- (a) that works have been or are being carried out in relation to a listed building in its area which involve a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted, and
  - (b) that the works (or any of them) ought to be stopped immediately, having regard to their effect on the character of the building as one of special architectural or historic interest.
- (2) A temporary stop notice must –
- (a) specify the works to which it relates,
  - (b) prohibit the carrying out of the works (or any of them specified in the notice),



- (c) set out the authority's reasons for issuing the notice, and
  - (d) state the effect of section 121 (offence of breaching temporary stop notice).
- (3) The planning authority must display a copy of the temporary stop notice on the listed building to which it relates; and the copy must specify the date on which it is first displayed.
- (4) But if—
  - (a) it is not reasonably practicable to display a copy of the notice on the building, or
  - (b) the authority considers that displaying a copy of the notice on the building might damage it,the authority may instead display a copy in a prominent place as near to the building as is reasonably practicable.
- (5) The authority may serve a copy of the notice on any person the authority considers—
  - (a) to be carrying out the works that the notice prohibits or causing or permitting them to be carried out,
  - (b) to be an occupier of the listed building to which the notice relates, or
  - (c) to have an interest in the building.
- (6) A temporary stop notice may not prohibit the carrying out of works of a description, or in circumstances, specified in regulations made by the Welsh Ministers.

## **120 Duration etc. of temporary stop notice**

- (1) A temporary stop notice takes effect when a copy of it is first displayed in accordance with section 119.
- (2) A temporary stop notice ceases to have effect—
  - (a) at the end of 28 days beginning with the day the copy of it is first displayed in accordance with section 119, or
  - (b) if it specifies a shorter period beginning with that day, at the end of that period.
- (3) But if the planning authority withdraws the notice before the end of the period for which it would otherwise have effect, the notice ceases to have effect when it is withdrawn.
- (4) A planning authority may not issue a second or subsequent temporary stop notice in relation to the same works unless the authority has, since issuing the previous notice, taken other enforcement action in relation to the breach referred to in section 119(1)(a).
- (5) In subsection (4) the reference to taking other enforcement action is a reference to—
  - (a) issuing an enforcement notice under section 123, or
  - (b) obtaining an injunction under section 135.

**121 Offence of breaching temporary stop notice**

- (1) A person commits an offence if, at any time when a temporary stop notice has effect, the person carries out works prohibited by the notice or causes or permits such works to be carried out.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same temporary stop notice by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for the person to prove that the person did not know, and could not reasonably have been expected to know, of the existence of the temporary stop notice.
- (4) In proceedings for an offence under this section, it is a defence to prove that—
  - (a) works to the listed building were urgently necessary in the interests of safety or health or for the preservation of the building,
  - (b) it was not practicable to secure safety or health or the preservation of the building by carrying out works of repair or works to provide temporary support or shelter,
  - (c) the works carried out were limited to the minimum measures immediately necessary, and
  - (d) notice in writing justifying in detail the carrying out of the works was given to the planning authority in whose area the building is or was situated as soon as reasonably practicable.
- (5) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.
- (6) In determining the amount of the fine, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

**122 Compensation for loss or damage caused by temporary stop notice**

- (1) This section applies where—
  - (a) the works specified in a temporary stop notice do not, at the time the notice takes effect, involve a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted, or
  - (b) a planning authority withdraws a temporary stop notice after it has taken effect.
- (2) This section does not apply by virtue of subsection (1)(b) where—
  - (a) listed building consent is granted for the works specified in the temporary stop notice after the notice has taken effect, and
  - (b) the planning authority withdraws the notice after the grant of that consent.

- (3) Any person who has an interest in the listed building to which the notice relates at the time the notice takes effect is entitled, on making a claim to the planning authority, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the effect of the notice.
- (4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.
- (5) No compensation is payable under this section for loss or damage that the claimant could have avoided by –
  - (a) providing information that the claimant was required to provide by a notice served by the planning authority under section 197 of this Act or section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), or
  - (b) co-operating with the planning authority in any other way when responding to such a notice.
- (6) A claim for compensation under this section must be made in writing within 6 months beginning –
  - (a) in a case falling within subsection (1)(a) but not within subsection (1)(b), with the day the temporary stop notice takes effect;
  - (b) in a case falling within subsection (1)(b), with the day the notice is withdrawn.

*Enforcement notices issued by planning authorities*

**123 Power of planning authority to issue enforcement notice**

- (1) A planning authority may issue an enforcement notice if it considers –
  - (a) that works which involve a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted have been or are being carried out in relation to a listed building in its area, and
  - (b) that it is appropriate to issue the notice, having regard to the effect of the works on the character of the building as a building of special architectural or historic interest.
- (2) An enforcement notice must –
  - (a) specify the alleged breach, and
  - (b) require steps specified in the notice to be taken for one or more of the purposes set out in subsection (3).
- (3) The purposes are –
  - (a) restoring the listed building to its condition before the breach took place,
  - (b) if the planning authority considers that restoration would not be reasonably practicable or would be undesirable, carrying out further works to alleviate the effect of the breach, or

- (c) putting the building in the condition it would have been in if the terms of any listed building consent for the works to which the notice relates (including any conditions attached to the consent) had been complied with.
- (4) Where an enforcement notice imposes a requirement under subsection (3)(b), listed building consent is to be treated as having been granted for any works carried out in compliance with the requirement.

#### **124 Service and taking effect of enforcement notice**

- (1) An enforcement notice must specify –
  - (a) the date on which it is to take effect, and
  - (b) the period within which the steps specified in it must be taken.
- (2) The notice takes effect at the beginning of the day specified under subsection (1)(a); but where an appeal is made against the notice under section 127, this is subject to sections 127(4)(a) and 184(5).
- (3) An enforcement notice may specify different periods for taking different steps.
- (4) Where a planning authority issues an enforcement notice, it must serve a copy of the notice on –
  - (a) every owner and occupier of the listed building to which the notice relates, and
  - (b) any other person who has an interest in the building which the authority considers to be materially affected by the notice.
- (5) Each copy of the notice must be served –
  - (a) before the end of 28 days after the day the notice is issued, and
  - (b) at least 28 days before the date specified in the notice as the date on which it is to take effect.

#### **125 Variation and withdrawal of enforcement notice**

- (1) Where a planning authority has issued an enforcement notice, it may –
  - (a) withdraw the notice;
  - (b) waive or relax any requirement of the notice, and in particular extend the period within which the notice requires any step to be taken.
- (2) The authority may exercise the powers in subsection (1) whether or not the notice has taken effect.
- (3) The withdrawal of an enforcement notice does not prevent the planning authority from issuing another enforcement notice.
- (4) Subsection (5) applies where the planning authority had served copies of the enforcement notice under section 124(4) before exercising the powers in subsection (1).
- (5) Immediately after exercising any of those powers, the authority must give notice that it has done so to every person who was served with a copy of the enforcement notice (or who would be served with a copy of the notice if it were reissued).

**126 Effect of granting listed building consent on enforcement notice**

- (1) This section applies if, after an enforcement notice has been issued, listed building consent is granted under section 89(2) –
  - (a) authorising any works to which the notice relates that have been carried out in breach of section 88, or
  - (b) authorising works which involve a breach of a condition subject to which a previous consent was granted.
- (2) The notice ceases to have effect (or does not take effect) so far as it –
  - (a) requires steps to be taken that are inconsistent with the authorisation of the works, or
  - (b) requires steps to be taken for complying with the condition.
- (3) The fact that an enforcement notice has wholly or partly ceased to have effect by virtue of this section does not affect the liability of any person for an offence in respect of a previous failure to comply with the notice (see section 133).

*Appeals and other proceedings relating to enforcement notices*

**127 Right to appeal against enforcement notice**

- (1) The following persons may appeal to the Welsh Ministers against an enforcement notice (whether or not a copy of the notice has been served on them) –
  - (a) any person who has an interest in the listed building to which the notice relates;
  - (b) any person who by virtue of a licence –
    - (i) occupies the building on the day the notice is issued, and
    - (ii) continues to occupy it when the appeal is made.
- (2) An appeal may be made on one or more of the following grounds –
  - (a) that the building is not of special architectural or historic interest;
  - (b) that the matters alleged to constitute a breach of section 88 or of a condition of listed building consent have not occurred;
  - (c) that those matters (if they occurred) do not constitute such a breach;
  - (d) that the following conditions are met –
    - (i) works to the building were urgently necessary in the interests of safety or health or for the preservation of the building,
    - (ii) it was not practicable to secure safety or health or the preservation of the building by carrying out works of repair or works to provide temporary support or shelter, and
    - (iii) the works carried out were limited to the minimum measures immediately necessary;

- (e) that listed building consent ought to be granted for the works to which the notice relates, or that any relevant condition of listed building consent which has been granted for the works ought to be removed or replaced with different conditions;
  - (f) that a copy of the notice was not served on a person as required by section 124;
  - (g) that steps which the notice requires under section 123(3)(a) would not serve the purpose of restoring the character of the building;
  - (h) that steps which the notice requires for any of the purposes set out in section 123(3) exceed what is necessary for the purpose in question;
  - (i) that the period within which the notice requires any step to be taken is unreasonably short.
- (3) An appeal must be made by –
- (a) serving a notice of appeal on the Welsh Ministers before the date specified in the enforcement notice as the date on which it is to take effect,
  - (b) sending a notice of appeal to the Welsh Ministers in a properly addressed and pre-paid letter posted to them at a time when, in the ordinary course of post, it would be delivered to them before that date, or
  - (c) sending a notice of appeal to the Welsh Ministers using electronic communications at a time when, in the ordinary course of transmission, it would be delivered to them before that date.
- (4) Where an appeal is made –
- (a) the enforcement notice has no effect until the appeal is finally determined or withdrawn; but this is subject to any order under section 184(5);
  - (b) neither the appellant nor any other person is entitled, in any other proceedings started after the making of the appeal, to claim that the enforcement notice was not served on the appellant in accordance with section 124.
- (5) An appellant must submit to the Welsh Ministers a statement in writing containing information required by regulations made by the Welsh Ministers.
- (6) The appellant must submit the statement either –
- (a) with the notice of appeal, or
  - (b) within the period specified in regulations made by the Welsh Ministers.
- (7) Where an appeal is made on more than one ground, if the appellant fails to give information required under subsection (5) in relation to a ground within the period specified under subsection (6)(b), the Welsh Ministers may determine the appeal without considering that ground.
- (8) Chapter 2 of Part 5 makes provision about the procedure for the consideration of appeals under this section (including provision for them to be determined by persons appointed by the Welsh Ministers).

**128 Determination of appeal**

- (1) On an appeal under section 127, the Welsh Ministers may –
  - (a) correct any defect, error or misdescription in the enforcement notice to which the appeal relates, or
  - (b) vary the terms of the notice,if they are satisfied that the correction or variation will not cause injustice to the appellant or the planning authority.
- (2) Where the Welsh Ministers determine an appeal –
  - (a) if they allow the appeal, they may quash the enforcement notice;
  - (b) they must give any directions necessary to give effect to their determination.
- (3) On the determination of an appeal the Welsh Ministers may –
  - (a) grant listed building consent for any of the works to which the enforcement notice relates;
  - (b) remove any condition subject to which listed building consent was granted and replace it with any other condition, whether more or less onerous;
  - (c) exercise their power under section 76 to de-list the building to which the appeal relates.
- (4) Where it would otherwise be a ground for determining to allow an appeal that a copy of the enforcement notice was not served on a person who was required to be served, the Welsh Ministers may ignore that fact if neither the appellant nor that person has been substantially prejudiced by the failure.
- (5) The Welsh Ministers may –
  - (a) dismiss an appeal if the appellant fails to comply with section 127(6);
  - (b) allow an appeal and quash the enforcement notice if the planning authority fails, within the period specified in regulations made under section 175, to comply with a requirement of the regulations to –
    - (i) submit a statement of the representations the authority proposes to make on the appeal which includes the matters specified in the regulations, or
    - (ii) send the Welsh Ministers a copy of the enforcement notice and a list of the persons on whom copies of it were served.
- (6) The decision of the Welsh Ministers on the appeal (including any decision relating to the exercise of the powers conferred by subsection (3)) is final.

**129 Grounds for appeal not to be raised in other proceedings**

The validity of an enforcement notice may not be questioned, on any of the grounds on which an appeal may be made under section 127, in any proceedings except an appeal under that section.

*Compliance with enforcement notices***130 Order to permit steps required by enforcement notice**

- (1) An owner of land may apply by way of complaint to a magistrates' court for an order requiring another person who has an interest in the land to permit the owner to take steps required by an enforcement notice.
- (2) The court may make such an order if it is satisfied that the other person is preventing the owner from taking steps required by the enforcement notice.

**131 Power to enter land and take steps required by enforcement notice**

- (1) If the period within which an enforcement notice requires any step to be taken has ended and the step has not been taken, the planning authority that issued the notice may at any reasonable time enter the land to which the notice relates and take the step.
- (2) A person who intentionally obstructs a person exercising a power under subsection (1) commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) This section does not apply in relation to Crown land.

**132 Recovery of costs of compliance with enforcement notice**

- (1) Where a planning authority exercises the powers under section 131(1) to enter land and take a step required by an enforcement notice, the authority may recover from a person who is then an owner of the land the costs it reasonably incurs in doing so.
- (2) If a planning authority seeks to recover costs under subsection (1) from an owner of land who—
  - (a) is entitled to receive the rack rent of the land merely as agent or trustee for another person (the "principal"), and
  - (b) does not have, and has not had at any time since the day payment of the costs was demanded, enough money on behalf of the principal to pay the costs in full,the liability of the agent or trustee is limited to the total amount of money that the agent or trustee has had on behalf of the principal since that day.
- (3) If subsection (2) prevents a planning authority recovering the whole of its costs from an agent or trustee, it may recover them from the principal, or partly from the principal and partly from the agent or trustee.
- (4) Where a copy of an enforcement notice has been served in respect of a listed building—
  - (a) costs which an owner or occupier of the building incurs for the purpose of complying with the notice, and



- (b) amounts which an owner of land pays under subsection (1) in respect of costs incurred by the planning authority in taking steps required by the notice, are to be treated as incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (5) The costs recoverable by a planning authority under subsection (1) are, until recovered, a charge on the land to which the enforcement notice relates.
- (6) The charge takes effect as a local land charge at the beginning of the day after the day the authority completes the step to which the costs relate.
- (7) Subsection (8) applies where –
- (a) a planning authority removes materials from land in the course of taking steps required by an enforcement notice, and
  - (b) the owner of the materials does not, within 3 days after the day they are removed, claim the materials and take them away.
- (8) The planning authority –
- (a) may sell the materials, and
  - (b) if it does so, must pay the proceeds to the person who owned the materials, after deducting any costs recoverable by it from the person.
- (9) A planning authority may not recover costs under this section from the Crown.

### **133 Offence of failing to comply with enforcement notice**

- (1) Where, at any time after the end of the period within which an enforcement notice requires any step to be taken, the step has not been taken, a person who is at that time an owner of the listed building to which the notice relates is guilty of an offence.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same enforcement notice by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for the person to prove –
- (a) that the person did everything the person could be expected to do to secure that the steps required by the notice were taken, or
  - (b) that the person was not served with a copy of the enforcement notice and was not aware of its existence.
- (4) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.
- (5) In determining the amount of the fine, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

*Enforcement notices issued by Welsh Ministers***134 Power of Welsh Ministers to issue enforcement notice**

- (1) The Welsh Ministers may issue an enforcement notice if they consider –
  - (a) that works which involve a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted have been or are being carried out in relation to a listed building, and
  - (b) that it is appropriate to issue the notice, having regard to the effect of the works on the character of the building as a building of special architectural or historic interest.
- (2) Before issuing the notice, the Welsh Ministers must consult the planning authority in whose area the building is situated.
- (3) An enforcement notice issued by the Welsh Ministers has the same effect as one issued by a planning authority.
- (4) Sections 123 to 132 apply in relation to an enforcement notice issued by the Welsh Ministers as if references to a planning authority were references to the Welsh Ministers.

*Injunctions***135 Injunction to restrain unauthorised works or failure to comply with condition of consent**

- (1) A planning authority may apply to the High Court or the county court for an injunction restraining –
  - (a) an actual or expected breach of section 88 (requirement for works to be authorised) in relation to a listed building in its area, or
  - (b) an actual or expected failure to comply with a condition of listed building consent for works to a listed building in its area.
- (2) An authority may make an application whether or not it has exercised or is proposing to exercise any of its other powers under this Part.
- (3) The court may grant an injunction on any terms it considers appropriate for the purpose of restraining the breach.
- (4) Rules of court may provide for an injunction to be issued against a person whose identity is unknown.
- (5) An injunction may not be issued under this section against the Crown.

**CHAPTER 5****ACQUISITION AND PRESERVATION OF BUILDINGS OF SPECIAL INTEREST***Acquisition by agreement of buildings of special interest***136 Power of planning authority to acquire building by agreement**

- (1) A planning authority may acquire by agreement –
  - (a) any building wholly or mainly in Wales that it considers to be of special architectural or historic interest, and
  - (b) any land in respect of which the conditions in subsection (2) are met.

- (2) The conditions are that—
  - (a) the land includes, adjoins or is adjacent to the building, and
  - (b) the planning authority considers that the land is required—
    - (i) for preserving the building or its amenities,
    - (ii) for providing or facilitating access to it, or
    - (iii) for its proper control or management.
- (3) Part 1 of the Compulsory Purchase Act 1965 (c. 56) applies (so far as relevant) to an acquisition under this section, other than sections 4 to 8, section 10 and section 31 of that Act.
- (4) References in that Part to the execution of the works are to be read in relation to an acquisition under this section as including the carrying out of building or maintenance work authorised by section 203 of the Housing and Planning Act 2016 (c. 22) (power to override easements and other rights).

*Compulsory acquisition of listed buildings in need of repair*

**137 Powers to acquire listed building compulsorily for purpose of preservation**

- (1) This section applies if the Welsh Ministers—
  - (a) consider that reasonable steps are not being taken for properly preserving a listed building, and
  - (b) are satisfied that there is a compelling case in the public interest for the building to be acquired compulsorily for the purpose of preserving it.
- (2) The Welsh Ministers—
  - (a) may authorise the planning authority in whose area the listed building is situated to acquire compulsorily the building and any land in respect of which the conditions in subsection (3) are met, or
  - (b) may themselves acquire the building and land compulsorily.
- (3) The conditions are that—
  - (a) the land includes, adjoins or is adjacent to the building, and
  - (b) the Welsh Ministers consider that the land is required—
    - (i) for preserving the building or its amenities,
    - (ii) for providing or facilitating access to it, or
    - (iii) for its proper control or management.
- (4) This section does not permit the acquisition of—
  - (a) a building which is a scheduled monument (but see section 43), or
  - (b) an exempt religious building.
- (5) This section does not permit the acquisition of an interest in Crown land unless—
  - (a) the interest is held otherwise than by or on behalf of the Crown, and
  - (b) the appropriate Crown authority agrees to the acquisition.
- (6) The Acquisition of Land Act 1981 (c. 67) applies to an acquisition under this section.

- (7) In this Chapter “acquiring authority” means—
- (a) in the case of an acquisition or proposed acquisition under subsection (2)(a), the planning authority that acquires or proposes to acquire the listed building or land;
  - (b) in the case of an acquisition or proposed acquisition under subsection (2)(b), the Welsh Ministers.

### **138 Requirement to serve repairs notice before starting compulsory acquisition**

- (1) An acquiring authority may not start the compulsory acquisition of a listed building under section 137 unless—
- (a) the authority has served a repairs notice on every owner of the building,
  - (b) the 2 months beginning with the day the repairs notice was served have ended, and
  - (c) the repairs notice has not been withdrawn.
- (2) A repairs notice is a notice—
- (a) specifying the works the authority considers reasonably necessary for the proper preservation of the listed building, and
  - (b) explaining the effect of sections 137 to 141 of this Act and section 49 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) (assumption about listed building consent when assessing compensation for compulsory acquisition).
- (3) If—
- (a) a listed building is demolished after a repairs notice has been served in respect of it, but
  - (b) the Welsh Ministers are satisfied that they would have confirmed or made a compulsory purchase order in respect of the building had it not been demolished,
- the demolition of the building does not prevent the compulsory acquisition of the site of the building under section 137.
- (4) An acquiring authority may at any time withdraw a repairs notice it has served on any person; and if it does do so, it must immediately give the person notice of the withdrawal.
- (5) For the purposes of subsection (1) an acquiring authority starts a compulsory acquisition when it serves the notice required by section 12 of the Acquisition of Land Act 1981 (c. 67) or paragraph 3(1) of Schedule 1 to that Act.

### **139 Application to stop compulsory acquisition**

- (1) This section applies where a compulsory purchase order for the acquisition of a listed building under section 137 is made by a planning authority or prepared in draft by the Welsh Ministers.
- (2) Any person who has an interest in the listed building may apply to a magistrates’ court for an order that no further steps may be taken in relation to the compulsory purchase order.

- (3) The application must be made within 28 days after the day the notice required by section 12 of the Acquisition of Land Act 1981 (c. 67) or paragraph 3(1) of Schedule 1 to that Act is served.
- (4) If the magistrates' court is satisfied that reasonable steps have been taken for properly preserving the listed building, it must make the order applied for.
- (5) Any person aggrieved by the decision of the magistrates' court on the application may appeal against the decision to the Crown Court.

**140 Direction for minimum compensation where building deliberately allowed to fall into disrepair**

- (1) A compulsory purchase order for the acquisition of a listed building under section 137 may include a direction for minimum compensation if the acquiring authority is satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development of the site or any adjoining site.
- (2) A direction for minimum compensation is a direction that, in assessing compensation for the compulsory acquisition of the listed building, it is to be assumed –
  - (a) that planning permission would not be granted for any development of the site of the building, and
  - (b) that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than works necessary for restoring it to and maintaining it in a proper state of repair.
- (3) Where a direction for minimum compensation is included in an order made by a planning authority or prepared in draft by the Welsh Ministers, the statement of the effect of the order in the notice required by section 12 of the Acquisition of Land Act 1981 (c. 67) or paragraph 3(1) of Schedule 1 to that Act must –
  - (a) include a statement that the direction has been included, and
  - (b) explain the effect of the direction.
- (4) If the Welsh Ministers confirm or make a compulsory purchase order which includes a direction for minimum compensation, the compensation for the compulsory acquisition is to be assessed in accordance with the direction, despite anything to the contrary in –
  - (a) the Land Compensation Act 1961 (c. 33),
  - (b) the Town and Country Planning Act 1990 (c. 8),
  - (c) section 49 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9), or
  - (d) this Act.

**141 Application for removal of direction for minimum compensation**

- (1) This section applies where a direction for minimum compensation is included in a compulsory purchase order for the acquisition of a listed building under section 137 that is made by a planning authority or prepared in draft by the Welsh Ministers.

- (2) Any person who has an interest in the listed building may apply to a magistrates' court for an order that no direction for minimum compensation is to be included in the compulsory purchase order as confirmed or made by the Welsh Ministers.
- (3) The application must be made within 28 days after the day the notice required by section 12 of the Acquisition of Land Act 1981 (c. 67) or paragraph 3(1) of Schedule 1 to that Act is served.
- (4) If the magistrates' court is satisfied that the listed building has not been deliberately allowed to fall into disrepair for the purpose mentioned in section 140(1), it must make the order applied for.
- (5) Any person aggrieved by the decision of the magistrates' court on the application may appeal against the decision to the Crown Court.
- (6) The rights conferred by this section are in addition to, and do not limit, the rights conferred by section 139.

#### **142 Ending of rights over land acquired compulsorily**

- (1) On the completion of a compulsory acquisition of land under section 137 –
  - (a) all private rights of way over the land are extinguished,
  - (b) all rights to install, keep or maintain apparatus on, under or over the land are extinguished, and
  - (c) the acquiring authority becomes entitled to any apparatus on, under or over the land.
- (2) Subsection (1) does not apply to –
  - (a) any right to which a statutory undertaker is entitled, or apparatus belonging to a statutory undertaker, for the purpose of carrying on its undertaking,
  - (b) any right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network, or any electronic communications apparatus installed for the purposes of such a network, or
  - (c) any right or apparatus specified by the acquiring authority in a direction given before the completion of the acquisition.
- (3) Subsection (1) is also subject to any agreement (whether made before or after the completion of the acquisition) between the acquiring authority and the person who is entitled to the right or to whom the apparatus belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the transfer of apparatus under this section is entitled to be paid compensation by the acquiring authority.
- (5) Compensation under this section is to be determined in accordance with the Land Compensation Act 1961 (c. 33).
- (6) In subsection (2)(b) –

*“electronic communications code” (“cod cyfathrebu electronig”)* means the code set out in Schedule 3A to the Communications Act 2003 (c. 21);

“operator” (“*gweithredwr*”), “electronic communications code network” (“*rhwydwaith cod cyfathrebu electronig*”) and “electronic communications apparatus” (“*cyfarpar cyfathrebu electronig*”) have the meanings given by paragraph 1(1) of Schedule 17 to the Communications Act 2003.

*Management, use and disposal of buildings*

**143 Management, use and disposal of building acquired under this Chapter**

- (1) Where a planning authority acquires a building or other land under this Chapter, it may make any arrangements for the management, use or disposal of the building or land that it considers appropriate for the purpose of preserving the building or land.
- (2) For further provision about the use of land that a planning authority acquires by agreement under section 136, see sections 232, 233 and 235 (appropriation, disposal and development), 242 (overriding rights of possession) and 243 (joint body to hold land) of the Town and Country Planning Act 1990 (c. 8).
- (3) Where the Welsh Ministers acquire a building or other land under section 137, they may –
  - (a) make any arrangements they consider appropriate for the management, custody or use of the building or land, and
  - (b) dispose of the building or land, or deal with the building or land in any other way.
- (4) For provision removing restrictions on the use of certain types of land acquired under this Chapter, see sections 238 to 240 (consecrated land and burial grounds) and 241 (commons, open spaces and fuel or field garden allotments) of the Town and Country Planning Act 1990.

*Urgent preservation of listed buildings*

**144 Urgent works to preserve listed building**

- (1) A local authority may carry out any works it considers urgently necessary for the preservation of a listed building in its area.
- (2) The Welsh Ministers may carry out any works they consider urgently necessary for the preservation of any listed building.
- (3) The works that may be carried out under this section include works to provide temporary support or shelter for the listed building.
- (4) If the listed building or any part of it is in residential use, works may be carried out under this section only if they would not interfere unreasonably with that use.
- (5) At least 7 clear days’ written notice of the intention to carry out works under this section must be given –
  - (a) to every owner of the listed building, and
  - (b) if the building or any part of it is in residential use, every occupier of the building.
- (6) The notice must describe the works proposed to be carried out.
- (7) Works may not be carried out under this section in relation to –

- (a) a building which is a scheduled monument (but see section 61),
- (b) an exempt religious building, or
- (c) a listed building on Crown land.

#### **145 Power to require owner to meet costs of preservation works**

- (1) Where works for the preservation of a listed building have been carried out by a local authority or the Welsh Ministers under section 144, the local authority or (as the case may be) the Welsh Ministers may serve notice on any owner of the listed building requiring the owner to meet the costs of the works.
- (2) Where the works consist of or include works to provide temporary support or shelter for the listed building –
  - (a) the costs that may be recovered include any continuing expenditure involved in making available the equipment or materials used, and
  - (b) notices under subsection (1) may be given from time to time in respect of that continuing expenditure.
- (3) Subsection (4) applies if, within 28 days after the day a notice under subsection (1) is served, the owner complains in writing to the Welsh Ministers –
  - (a) that some or all of the works were unnecessary for the preservation of the listed building,
  - (b) in the case of works to provide temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time,
  - (c) that the amount specified in the notice is unreasonable, or
  - (d) that the recovery of that amount would cause hardship to the owner.
- (4) The Welsh Ministers must –
  - (a) determine to what extent the owner’s complaint is well-founded, and
  - (b) serve notice of their determination on –
    - (i) the owner, and
    - (ii) if the notice under subsection (1) was given by a local authority, that authority.
- (5) The notice of the Welsh Ministers’ determination must state –
  - (a) the reasons for the determination, and
  - (b) the amount that they have decided may be recovered.
- (6) An owner or local authority on whom notice is served under subsection (4)(b) may, within 28 days after the day the notice is served, appeal to the county court against the Welsh Ministers’ decision.

#### **146 Further provision about recovery of costs of preservation works**

- (1) The costs which a local authority or the Welsh Ministers may recover under section 145 carry interest, at the rate specified in regulations made by the Welsh Ministers, from the time when the notice under subsection (1) of that section becomes operative until all of the amounts due under that section are recovered.



- (2) The costs and any interest are recoverable by the local authority or (as the case may be) the Welsh Ministers as a debt.
- (3) The costs and any interest are, from the time when the notice under section 145(1) becomes operative until they are recovered, a charge on the land on which the listed building in question is situated.
- (4) The charge takes effect, at the time when the notice becomes operative, as a legal charge which is a local land charge.
- (5) For the purpose of enforcing the charge, the local authority or (as the case may be) the Welsh Ministers have the same powers and remedies under the Law of Property Act 1925 (c. 20) and otherwise as if they were a mortgagee by deed with powers to sell the land, make leases, accept surrenders of leases and appoint a receiver.
- (6) The power to appoint a receiver is exercisable at any time after the end of 1 month beginning with the day the charge takes effect.
- (7) For the purposes of this section a notice under section 145(1) becomes operative –
  - (a) where no complaint is made to the Welsh Ministers within the period referred to in section 145(3), at the end of that period;
  - (b) where a complaint is made but no appeal is made to the county court within the period referred to in section 145(6), at the end of that period;
  - (c) where an appeal is made and the decision on the appeal confirms the Welsh Ministers' determination under section 145(4) (with or without variation), at the time of the decision;
  - (d) where an appeal is made but is withdrawn, at the time of the withdrawal.

*Further provision about preservation of listed buildings*

**147 Steps for preservation of listed buildings in disrepair**

- (1) The Welsh Ministers may by regulations make provision for and in connection with conferring powers on local authorities or the Welsh Ministers to take steps to secure the proper preservation of listed buildings which have fallen into disrepair.
- (2) The regulations may, in particular, provide for –
  - (a) notices requiring owners of listed buildings which have fallen into disrepair to carry out works to secure their proper preservation (“preservation notices”);
  - (b) appeals against preservation notices;
  - (c) offences for failure to comply with preservation notices.
- (3) Regulations under this section –
  - (a) may disapply, or apply or reproduce with or without modifications, any provision of this Part or Part 5 or 7;
  - (b) may amend this Part or those Parts.
- (4) Regulations under this section may not make any provision that binds the Crown.

*Finance for repair and maintenance of buildings of special interest etc.***148 Grant or loan by local authority for repair or maintenance of building**

- (1) A relevant local authority may contribute towards any expenditure incurred, or to be incurred, in the repair or maintenance of—
  - (a) a listed building which is situated in or in the vicinity of the authority's area, or
  - (b) a building in the authority's area which is not a listed building but which the authority considers to be of special architectural or historic interest.
- (2) At the same time as making such a contribution, the authority may also contribute towards any expenditure incurred, or to be incurred, in the maintenance of any garden which—
  - (a) is occupied with the building, and
  - (b) adjoins or is adjacent to it.
- (3) A contribution under this section may be made by grant or loan.
- (4) A relevant local authority may make a loan under this section on any terms and conditions that it determines, which may for example include a term that the loan is free of interest.
- (5) A relevant local authority—
  - (a) may renounce its right to repayment of a loan or any outstanding interest, and
  - (b) may agree with the borrower to vary any of the terms and conditions of a loan.
- (6) A relevant local authority may make a grant under this section subject to any conditions it considers appropriate, which may for example include a condition that the recipient of the grant must make an agreement with the authority for the purpose of securing public access to all or part of the building or garden to which the grant relates.
- (7) In this section and section 149, "relevant local authority" means—
  - (a) a county council or county borough council in Wales;
  - (b) a National Park authority in Wales;
  - (c) a joint planning board constituted under section 2(1B) of the Town and Country Planning Act 1990 (c. 8).

**149 Recovery of grant made by local authority**

- (1) This section applies where a relevant local authority makes a grant under section 148.
- (2) If any condition imposed on the making of the grant is not complied with, the authority may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (3) Subsections (4) and (5) apply if, during the 3 years beginning with the day the grant is made—

- (a) there is a disposal of the whole or part of the interest that the recipient of the grant held in the building or garden to which the grant relates on the day the grant was made (“the relevant interest”), and
  - (b) the disposal is made by sale, by exchange or by lease for a term of at least 21 years.
- (4) If the disposal is made by the recipient of the grant or by a person to whom the recipient of the grant has given part of the relevant interest, the relevant local authority may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (5) If the disposal is made by a person to whom the recipient of the grant has given the whole of the relevant interest, the authority may recover the amount of the grant, or any part of that amount, from the person to whom the gift was made.
- (6) A relevant local authority may not recover amounts under this section which in aggregate exceed the amount of the grant.
- (7) In this section references to giving an interest to a person are references to giving it to the person directly or indirectly, other than on the death of the holder of the interest.

**150 Grant by Welsh Ministers for repair or maintenance of building, garden etc.**

- (1) The Welsh Ministers may make grants to meet any expenditure incurred, or to be incurred, in—
- (a) the repair or maintenance of a building which they consider to be of special architectural or historic interest,
  - (b) the maintenance of any land which includes, adjoins or is adjacent to such a building,
  - (c) the repair or maintenance of any objects ordinarily kept in such a building, or
  - (d) the maintenance of a garden or other land which they consider to be of special historic interest.
- (2) The following provisions of this section apply where—
- (a) the Welsh Ministers make a grant under subsection (1) on terms which provide for it to be recoverable under this section, and
  - (b) before or on making the grant the Welsh Ministers give notice in writing to the recipient of the grant which—
    - (i) summarises the effect of this section, and
    - (ii) specifies a period, beginning with the day the grant is made and ending not more than 10 years after that day, during which the grant is to be recoverable in accordance with subsections (4) to (6) (“the recovery period”).
- (3) If any condition imposed on the making of the grant is not complied with, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (4) Subsections (5) and (6) apply if during the recovery period—

- (a) there is a disposal of the whole or part of the interest that the recipient of the grant held in the building, land or objects to which the grant relates on the day the grant was made (“the relevant interest”), and
  - (b) the disposal is made by sale, by exchange or by lease for a term of at least 21 years.
- (5) If the disposal is made by the recipient of the grant or by a person to whom the recipient of the grant has given a part of the relevant interest, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (6) If the disposal is made by a person to whom the recipient of the grant has given the whole of the relevant interest, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the person to whom the gift was made.
- (7) The Welsh Ministers may not recover amounts under this section which in aggregate exceed the amount of the grant.
- (8) In this section references to giving an interest to a person are references to giving it to the person directly or indirectly, other than on the death of the holder of the interest.

### 151 Acceptance by Welsh Ministers of endowment for upkeep of building

- (1) This section applies where –
- (a) an instrument contains a provision purporting to be a gift of property of any kind to the Welsh Ministers on trust to use the income of the property (either for a limited time or indefinitely) for or towards the repair and maintenance of a relevant building, or of a relevant building together with other property,
  - (b) the provision does not create a charitable trust, and
  - (c) the Welsh Ministers accept the gift.
- (2) In this section –
- “endowment trust” (*“ymddiriedolaeth waddol”*) means the trust referred to in subsection (1)(a);
- “relevant building” (*“adeilad perthnasol”*) means –
- (a) a building which the Welsh Ministers consider to be of special architectural or historic interest and –
    - (i) in which, at the time when the trust instrument comes into operation, they are or soon will be entitled to an interest, or
    - (ii) which at that time is or soon will be under their control or management, or
  - (b) a building which at that time is or soon will be under their guardianship under Chapter 6 of Part 2;
- “trust fund” (*“cronfa’r ymddiriedolaeth”*) means the property given to the Welsh Ministers and any property for the time being representing that property.

- (3) The validity of the gift and of the endowment trust is not affected, and is to be treated as never having been affected, by any rule of law or equity which would not have affected their validity if the trust had been charitable.
- (4) While the endowment trust continues the Welsh Ministers have the same powers of management, disposition and investment in relation to the trust fund as are conferred by law on trustees of land in relation to the land and the proceeds of its sale.
- (5) The powers conferred by subsection (4) are in addition to, and do not limit, any powers conferred on the Welsh Ministers by the trust instrument.
- (6) If, while the endowment trust continues, an event happens –
  - (a) which has the immediate effect that the Welsh Ministers are not entitled to any interest in the building to which the trust relates and do not have the building under their control or management, and
  - (b) which would not otherwise cause the endowment trust to come to an end or be treated as having failed,on the happening of that event the endowment trust comes to an end and the trust fund passes as it would on a failure of the trust.
- (7) Subsection (8) applies if the trust instrument contains a provision purporting to give the trust fund, or to direct the trust fund to be held, on trust for charitable purposes if the endowment trust fails or comes to an end.
- (8) The validity of the gift or direction is not, and is to be treated as never having been, affected by any rule of law or equity relating to perpetuities.
- (9) In subsection (4) “trustees of land” has the same meaning as in the Trusts of Land and Appointment of Trustees Act 1996 (c. 47) (see section 1(1) of that Act).

## CHAPTER 6

### GENERAL

#### *Powers of entry*

#### **152 Powers to enter land**

- (1) A person authorised in writing by the Welsh Ministers may enter any land to survey a building on that land or on any other land in connection with a proposal to list or de-list the building.
- (2) A person authorised in writing by a planning authority may enter any land to survey a building on that land or on any other land in connection with a proposal to serve a temporary listing notice in relation to the building.

- (3) A person authorised in writing by a planning authority or the Welsh Ministers may enter any land to—
  - (a) survey that land or any other land in connection with a proposal to make an order under section 107 (modification or revocation of listed building consent or conservation area consent),
  - (b) survey that land or any other land in connection with a proposal to make an order under section 115 (termination of listed building partnership agreement or provision of agreement), or
  - (c) assess whether an offence has been or is being committed under section 91(5), 117 or 118.
- (4) A person authorised in writing by a planning authority may enter any land to—
  - (a) determine whether a temporary stop notice should be issued,
  - (b) display a copy of a temporary stop notice in accordance with section 119, or
  - (c) assess whether a temporary stop notice has been complied with.
- (5) A person authorised in writing by a planning authority or the Welsh Ministers may enter any land to—
  - (a) survey that land or any other land in connection with a proposal to issue an enforcement notice,
  - (b) assess whether an enforcement notice has been complied with,
  - (c) assess whether a listed building on that land or any other land is being maintained in a proper state of repair,
  - (d) survey that land or any other land in connection with a proposal to serve a repairs notice under section 138, or
  - (e) assess whether a repairs notice has been complied with.
- (6) A person authorised in writing by a local authority or the Welsh Ministers may enter any land to—
  - (a) determine whether works should be carried out under section 144 for the preservation of a building on that land or on any other land, or
  - (b) carry out works under that section for the preservation of a building on that land or on any other land.
- (7) An authorised person may enter any land to survey it, or estimate its value, in connection with a claim for compensation payable by a planning authority or the Welsh Ministers under this Part in relation to that land or any other land.
- (8) In subsection (7) “authorised person” means—
  - (a) an officer of the Valuation Office of His Majesty’s Revenue and Customs, or
  - (b) a person authorised in writing by the planning authority or the Welsh Ministers (as the case may be).
- (9) A power to survey land under this section includes power to search and bore to determine the nature of the subsoil or the presence of minerals.

**153 Exercise of power to enter land without warrant**

- (1) A power to enter land under section 152 may be exercised at any reasonable time.
- (2) A person authorised to enter land under section 152 may not demand admission as of right to any land which is occupied unless at least 24 hours' notice of the intended entry has been given to every occupier.
- (3) Subsection (2) does not apply to the power to enter land under section 152(4) (temporary stop notices).
- (4) A person authorised to enter land under section 152 –
  - (a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person's authorisation and state the purpose of the entry before entering the land;
  - (b) may take on to the land any other persons that are necessary;
  - (c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.
- (5) Where a person –
  - (a) proposes to carry out works in the exercise of a power of entry under section 152, and
  - (b) is required to give notice of the intended entry under subsection (2) of this section, the person may not carry out the works unless the notice of intended entry includes notice of the person's intention to carry them out.
- (6) Where –
  - (a) a person proposes to carry out works in the exercise of a power of entry under section 152 on land which belongs to a statutory undertaker, and
  - (b) the undertaker objects to the proposed works on the ground that carrying them out would be seriously detrimental to the carrying on of its undertaking,the person may not carry out the works without the agreement of the appropriate Minister.
- (7) A person may not enter Crown land in the exercise of a power under section 152 without the agreement of –
  - (a) a person who appears to the person seeking entry to the land to be entitled to give that agreement, or
  - (b) the appropriate Crown authority.
- (8) Subsections (2) to (6) do not apply to anything done by virtue of subsection (7).
- (9) In subsection (6) "appropriate Minister" has the meaning given by section 265 of the Town and Country Planning Act 1990 (c. 8).

**154 Warrant to enter land**

- (1) This section applies if a justice of the peace is satisfied on sworn information in writing –
  - (a) that there are reasonable grounds for entering land for a purpose mentioned in section 152, and
  - (b) that –

- (i) admission to the land has been refused or a refusal is reasonably expected, or
  - (ii) the case is one of urgency.
- (2) The justice of the peace may issue a warrant conferring a power to enter the land on any person who is authorised in writing by a person who may authorise entry under section 152 for the purpose in question.
- (3) For the purposes of subsection (1)(b) admission to land is to be treated as having been refused if no reply is received to a request for admission within a reasonable period.
- (4) Section 152(9) applies to a power to survey land conferred by a warrant under this section.
- (5) A warrant under this section confers a power to enter land –
  - (a) on one occasion only, and
  - (b) only at a reasonable time, unless the case is one of urgency.
- (6) A person authorised to enter land under this section –
  - (a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person’s authorisation and state the purpose of the entry before entering the land,
  - (b) may take on to the land any other persons that are necessary,
  - (c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.
- (7) A warrant under this section ceases to have effect at the end of 1 month beginning with the day it is issued.
- (8) This section does not apply in relation to Crown land.

## **155 Supplementary provision about powers of entry**

- (1) This section applies where a person has a power to enter land conferred by section 152 or by a warrant under section 154.
- (2) A person who intentionally obstructs a person exercising the power of entry commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If damage is caused to land or other property –
  - (a) in the exercise of the power of entry, or
  - (b) in making any survey for the purpose of which the power of entry was conferred,a person suffering the damage may recover compensation from the person who authorised the entry.
- (5) A claim for compensation under subsection (4) must be made in writing within 6 months beginning with the day the damage was caused (or if the damage was caused over more than one day, the last day it was caused).



- (6) A person commits an offence if the person discloses information which the person obtained in the exercise of the power of entry, and which relates to a manufacturing process or trade secret, for a purpose other than that for which the person was authorised to enter the land.
- (7) A person guilty of an offence under subsection (6) is liable –
  - (a) on summary conviction, to a fine;
  - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.
- (8) This section does not apply to anything done by virtue of section 153(7) (entry on Crown land).

*Supplementary*

**156 Exempt religious buildings**

- (1) The Welsh Ministers may by regulations provide that a religious building used for religious purposes is an exempt religious building for the purposes of –
  - (a) sections 83 and 84 (temporary listing of building);
  - (b) section 88 (requirement for works affecting listed building to be authorised);
  - (c) section 118 (offence of intentionally damaging listed building);
  - (d) section 137 (compulsory acquisition of listed building for preservation);
  - (e) section 144 (urgent works for preservation of listed building).
- (2) For the purposes of section 88 a building is to be treated as being used for religious purposes if it would be used for those purposes but for the works in question.
- (3) Regulations under this section may –
  - (a) make provision in relation to religious buildings of a description specified in the regulations (whether by reference to a religious faith or denomination, a use made of the buildings, or any other circumstance) or in relation to a particular building;
  - (b) make provision in relation to all or part of a religious building;
  - (c) provide that a building is an exempt religious building only in relation to works of a description specified in the regulations (whether by reference to the extent of the works, the person by whom they are carried out, or any other circumstance);
  - (d) make different provision for buildings in different areas;
  - (e) make consequential amendments to any other provision of this Act.
- (4) In this section references to a religious building –
  - (a) include any structure or artificial object that is fixed to a religious building or within its curtilage;
  - (b) do not include a building used, or available for use, by a minister of religion wholly or mainly as a residence from which to perform the duties of that office.

**157 Interpretation of this Part**

In this Part –

“enforcement notice” (*“hysbysiad gorfodi”*) means an enforcement notice issued under section 123 or 134 (as the case may be);

“exempt religious building” (*“adeilad crefyddol esempt”*) is to be interpreted in accordance with section 156;

“interim protection” (*“gwarchodaeth interim”*) has the meaning given by section 79(3);

“listing” (*“rhestru”*) and “de-listing” (*“dadrestru”*), in relation to a building, have the meanings given by section 76(6);

“local authority” (*“awdurdod lleol”*) means –

- (a) a county council or county borough council in Wales;
- (b) a National Park authority in Wales;
- (c) a community council;
- (d) a police and crime commissioner in Wales;
- (e) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies;
- (f) a body in Wales which is a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988 (c. 41);
- (g) a body in Wales to which section 75 of that Act (special levies) applies;
- (h) a joint board or joint committee, if all the constituent authorities are local authorities within paragraphs (a) to (g);

“temporary listing” (*“rhestru dros dro”*) has the meaning given by section 83(5);

“temporary stop notice” (*“hysbysiad stop dros dro”*) means a temporary stop notice issued under section 119;

“Wales” (*“Cymru”*) means the combined area of the counties and county boroughs in Wales.

**PART 4****CONSERVATION AREAS***Designation of conservation areas***158 Designating areas of special architectural or historic interest as conservation areas**

(1) A planning authority must –

- (a) from time to time determine which parts of its area are areas of special architectural or historic interest whose character or appearance it is desirable to preserve or enhance, and
- (b) designate those parts as conservation areas.

- (2) A planning authority may vary or cancel a designation.
- (3) If a planning authority designates a conservation area, or varies or cancels a designation, it must give notice that it has done so to the Welsh Ministers.
- (4) The notice must contain enough information to identify the area affected.
- (5) The planning authority must publish the notice with an explanation of the effect of the designation, variation or cancellation –
  - (a) in the London Gazette, and
  - (b) in at least one newspaper circulating in the authority's area.
- (6) A designation under this section is a local land charge.

*Duties relating to conservation areas*

**159 Duty to formulate and publish proposals for preservation and enhancement of conservation areas**

- (1) A planning authority must from time to time prepare and publish proposals for the preservation and enhancement of any part of its area which is a conservation area.
- (2) The authority must submit the proposals for consideration to a public meeting held in the conservation area to which the proposals relate or, where there is no suitable place in the conservation area, as near to it as reasonably practicable.
- (3) The authority must have regard to any views about the proposals which are expressed at the meeting.

**160 Exercise of planning functions: general duty relating to conservation areas**

- (1) In exercising a planning function in relation to a building or other land in a conservation area, a person must have special regard to the desirability of preserving or enhancing the character or appearance of that area.
- (2) In this section “planning function” means any function under or by virtue of –
  - (a) Part 3, this Part, Part 5 or Part 7 as it applies for the purposes of any of those Parts,
  - (b) the Town and Country Planning Act 1990 (c. 8), or
  - (c) section 70 or 73 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (estate management schemes).

*Control of demolition in conservation areas*

**161 Requirement for demolition to be authorised**

- (1) A person must not carry out works for the demolition of a building to which this section applies, or cause such works to be carried out, unless the works are authorised under section 162.
- (2) This section applies to any building in a conservation area, except –
  - (a) a building which is a scheduled monument (but see section 11);
  - (b) a listed building (but see section 88);

- (c) a building of a description specified in regulations made by the Welsh Ministers;
  - (d) a building of a description specified in a direction given to an individual planning authority by the Welsh Ministers.
- (3) The Welsh Ministers may direct a planning authority that, despite any provision made by regulations under subsection (2)(c), this section is to apply to a building of a description specified in the direction.
- (4) Subsection (1) does not prohibit works carried out by or on behalf of the Crown in the circumstances set out in paragraphs (a) to (d) of section 117(4) (emergency works).
- (5) Schedule 11 makes provision about the effect of this section ceasing to apply to a building.

## **162 Authorisation of demolition by conservation area consent**

- (1) Works for the demolition of a building to which section 161 applies are authorised if –
- (a) written consent to carry them out has been granted by the planning authority in whose area the building is situated or the Welsh Ministers, and
  - (b) the works are carried out in accordance with the terms of the consent (including any conditions attached to it).
- (2) Where –
- (a) works for the demolition of a building to which section 161 applies have been carried out without being authorised, and
  - (b) the planning authority or the Welsh Ministers grant written consent for the works, the works are authorised from the grant of that consent.
- (3) Consent under subsection (1) or (2) is referred to in this Act as conservation area consent.

## **163 Application of Part 3 to conservation areas**

- (1) The following provisions of Part 3 apply in relation to buildings to which section 161 applies as they apply in relation to listed buildings –
- (a) Chapter 2 (control of works), except –
    - (i) sections 88 and 89;
    - (ii) section 90(1)(c) and (4)(b);
    - (iii) section 95;
    - (iv) section 96(2);
    - (v) section 97(5), (6) and (9);
    - (vi) sections 98(3)(b) and 99(5);
    - (vii) section 101(2);
    - (viii) section 104(3);
    - (ix) section 111(5) and (8);

- (b) Chapter 4 (enforcement), except—
    - (i) section 117(5);
    - (ii) section 118;
    - (iii) section 128(3)(c);
  - (c) Chapter 6 (general), except—
    - (i) section 152(1), (2), (3)(b) and (5)(c) to (e);
    - (ii) section 156.
- (2) In their application in relation to buildings to which section 161 applies—
- (a) the provisions applied by subsection (1) are to be read as if—
    - (i) any reference to listed building consent were a reference to conservation area consent;
    - (ii) any reference to the character of a listed building were a reference to the character or appearance of the conservation area in which the building is situated;
    - (iii) any other reference to a listed building were a reference to a building to which section 161 applies;
    - (iv) any reference to section 88 were a reference to section 161;
  - (b) the provisions applied by subsection (1)(a) are to be read as if—
    - (i) in section 98(3)(a), the reference to section 89(2) were a reference to section 162(2);
    - (ii) in section 99(3), for “Sections 90 to 95” there were substituted “Sections 90 to 94”;
  - (c) the provisions applied by subsection (1)(b) are to be read as if—
    - (i) in sections 117(4), 121(4) and 127(2)(d), the references to the preservation of the building were omitted;
    - (ii) in section 126(1), the reference to section 89(2) were a reference to section 162(2);
    - (iii) in section 127(2), for paragraph (a) there were substituted “that retention of the building is not necessary in the interests of preserving or enhancing the character or appearance of the conservation area in which it is situated”;
  - (d) the provisions applied by subsection (1)(c) are to be read as if, in section 152(3)(c), the reference to section 118 were omitted.
- (3) The Welsh Ministers may by regulations amend this section to make additional or different provision about the application of Chapters 2, 4 and 6 of Part 3 in relation to buildings to which section 161 applies.

*Urgent preservation of buildings in conservation areas***164 Urgent works to preserve buildings in conservation areas**

- (1) Subsection (2) applies where the Welsh Ministers consider that the preservation of a building in a conservation area is important for maintaining the character or appearance of that area.
- (2) The Welsh Ministers may direct that section 144 (urgent works) applies to the building as it applies to listed buildings.
- (3) Where a direction has effect in relation to a building—
  - (a) sections 144 to 146 are to be read as if references to a listed building were references to the building;
  - (b) section 144(7) is to be read as if paragraph (b) were omitted.

*Grants and conservation area agreements***165 Grant by Welsh Ministers for preservation or enhancement of conservation areas**

- (1) The Welsh Ministers may make grants to meet any relevant expenditure that they consider has made or will make a significant contribution towards the preservation or enhancement of the character or appearance of a conservation area.
- (2) Expenditure is relevant for the purposes of subsection (1) if it has been or is to be incurred in or in connection with, or with a view to the promotion of, such preservation or enhancement as is mentioned in that subsection.
- (3) The following provisions of this section apply where—
  - (a) the Welsh Ministers make a grant under subsection (1) in relation to a building or other land on terms which provide for it to be recoverable under this section, and
  - (b) before or on making the grant the Welsh Ministers give notice in writing to the recipient of the grant which—
    - (i) summarises the effect of this section, and
    - (ii) specifies a period, beginning with the day the grant is made and ending not more than 10 years after that day, during which the grant is to be recoverable in accordance with subsections (5) to (7) (“the recovery period”).
- (4) If any condition imposed on the making of the grant is not complied with, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (5) Subsections (6) and (7) apply if during the recovery period—
  - (a) there is a disposal of the whole or part of the interest that the recipient of the grant held in the building or other land to which the grant relates on the day the grant was made (“the relevant interest”), and
  - (b) the disposal is made by sale, by exchange or by lease for a term of at least 21 years.

- (6) If the disposal is made by the recipient of the grant or by a person to whom the recipient of the grant has given part of the relevant interest, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (7) If the disposal is made by a person to whom the recipient of the grant has given the whole of the relevant interest, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the person to whom the gift was made.
- (8) The Welsh Ministers may not recover amounts under this section which in aggregate exceed the amount of the grant.
- (9) In this section references to giving an interest to a person are references to giving it to the person directly or indirectly, other than on the death of the holder of the interest.

## **166 Conservation area agreements**

- (1) The Welsh Ministers may make a conservation area agreement with one or more planning authorities.
- (2) A conservation area agreement is an agreement that a specified amount of money will be set aside for a specified period of years for the purpose of making grants for the repair of buildings which are situated in a conservation area and –
  - (a) included in a list compiled for the purposes of the agreement by the parties to it, or by them and other planning authorities, or
  - (b) shown on a map prepared for those purposes by the parties, or by them and other planning authorities.
- (3) The Welsh Ministers may pay a grant for the purposes of a conservation area agreement to a planning authority which is a party to the agreement or any other person.
- (4) The Welsh Ministers may make arrangements with any such authority about how the agreement is to be carried out (including arrangements for the offer and payment of grants under this section).
- (5) Section 165(4) to (9) apply to a grant under this section, but taking the recovery period to be 3 years beginning with the day the grant is made.

## **PART 5**

### **SUPPLEMENTARY PROVISION ABOUT BUILDINGS OF SPECIAL INTEREST AND CONSERVATION AREAS**

#### **CHAPTER 1**

#### **EXERCISE OF FUNCTIONS BY PLANNING AUTHORITIES AND OTHER LOCAL AUTHORITIES**

## **167 Fees and charges for exercising functions**

- (1) The Welsh Ministers may by regulations require the payment of a fee or charge to a planning authority for –
  - (a) performing any of its functions under Part 3, Part 4, this Part or Part 7 as it applies for the purposes of any of those Parts;

- (b) doing anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of those functions.
- (2) Regulations under this section may in particular –
- (a) make provision about when a fee or charge must be paid;
  - (b) make provision about who must pay a fee or charge;
  - (c) make provision about how a fee or charge is to be calculated (including who is to make the calculation);
  - (d) specify circumstances in which a fee or charge is to be waived or refunded (wholly or in part);
  - (e) specify circumstances in which no fee or charge is to be paid;
  - (f) make provision about the effect of paying or failing to pay a fee or charge in accordance with the regulations (which may include provision that amends, repeals or revokes any enactment, including any provision of this Act);
  - (g) specify circumstances in which a fee or charge payable to one planning authority is to be transferred to another planning authority.
- (3) If regulations under this section provide for a planning authority to calculate the amount of any fees or charges, the authority must ensure that, taking one financial year with another, its income from the fees or charges does not exceed the cost of performing the functions, or doing the things, to which they relate.

#### **168 Arrangements for exercising functions in relation to applications**

- (1) Sections 319ZA to 319ZD of the Town and Country Planning Act 1990 (c. 8) (discharge of functions relating to applications) apply to the exercise by a planning authority of its functions in relation to applications under or by virtue of Parts 3 and 4 as they apply to the exercise of its functions in relation to applications under that Act.
- (2) The validity of a consent or determination granted or made, or purported to be granted or made, by a planning authority in respect of an application made under or by virtue of either of those Parts may not be questioned in any legal proceedings, or in any other proceedings under this Act, on the ground that the consent or determination should have been granted or made by another planning authority.

#### **169 Arrangements for obtaining specialist advice**

- (1) The Welsh Ministers may at any time direct a planning authority to submit for their approval the arrangements the authority proposes to make for obtaining specialist advice in connection with its relevant functions.
- (2) The authority must submit its proposed arrangements to the Welsh Ministers within the period specified in the direction.
- (3) If the Welsh Ministers are not satisfied with the arrangements that the authority (“authority A”) proposes to make, they may direct authority A and another planning authority specified in the direction (“authority B”) –



- (a) to make an agreement under section 113 of the Local Government Act 1972 (c. 70) to place the services of persons employed by authority B who are qualified to give the specialist advice at the disposal of authority A, or
  - (b) to make arrangements for authority B to exercise of any of the relevant functions of authority A.
- (4) A direction under subsection (3)(b) may make provision about the terms of the arrangements.
- (5) Before giving a direction under subsection (3) the Welsh Ministers must consult both planning authorities.
- (6) For the purposes of this section the relevant functions of a planning authority are its functions under or by virtue of—
- (a) sections 83 and 84 (temporary listing of buildings),
  - (b) Chapter 2 (grant, modification and revocation of consent) of Part 3,
  - (c) Chapter 3 (listed building partnership agreements) of that Part,
  - (d) Chapter 4 (enforcement of controls) of that Part,
  - (e) section 314A(1) of the Town and Country Planning Act 1990 (c. 8) (planning permission for development affecting listed buildings), and
  - (f) sections 158 to 163 of this Act (designation of conservation areas, duties of planning authorities and control of demolition).

#### **170 Form of documents**

The Welsh Ministers may by regulations specify the form and content of any notice, order or other document that a local authority is authorised or required to serve, make or issue under or by virtue of Part 3, Part 4, this Part or Part 7 as it applies for the purposes of any of those Parts.

#### **171 Contributions towards expenditure by local authorities**

- (1) Any local authority or statutory undertaker may contribute towards expenditure incurred by a planning authority or other local authority in or in connection with the exercise of its functions under Part 3 (including its functions under that Part as applied by section 163).
- (2) Subsection (1) does not apply to expenditure incurred—
- (a) in the payment of compensation under sections 80, 86, 108, 116 and 122 (but this does not prevent an authority complying with a direction under subsection (3)(b)), or
  - (b) in or in connection with the exercise of functions under sections 143 to 146, 148 and 149.
- (3) Where compensation is payable by a planning authority or other local authority in consequence of anything done under Chapters 1 to 4 of Part 3 (including anything done under Chapter 2 or 4 of that Part as applied by section 163), the Welsh Ministers may—

- (a) contribute towards the payment of the compensation, if the thing was done wholly or partly in the interest of a service which is provided by the Welsh Ministers, or
  - (b) direct another local authority to contribute an amount that the Welsh Ministers consider reasonable, having regard to any benefit accruing to that other authority as a result of the thing being done.
- (4) Subsection (3)(b) does not apply where a planning authority is liable to pay compensation under section 116 in consequence of the termination of a listed building partnership agreement or a provision of such an agreement.
- (5) In such a case, the Welsh Ministers may direct any other planning authority that is or was a party to the agreement to reimburse the authority by which the compensation is payable, in whole or in part.
- (6) The Welsh Ministers may not give a direction under subsection (5) unless they have consulted all of the planning authorities that are or were parties to the agreement.

## CHAPTER 2

### PROCEEDINGS BEFORE THE WELSH MINISTERS

#### *Procedural provisions applying to appeals to Welsh Ministers*

#### **172 Fees for appeals**

- (1) The Welsh Ministers may by regulations require a person who makes an appeal to which this section applies to pay a fee to the Welsh Ministers.
- (2) This section applies to –
- (a) an appeal under section 100 (appeal against decision or failure to make decision on application for listed building consent or conservation area consent, for the variation or removal of conditions or for approval of details);
  - (b) an appeal under section 127 (appeal against enforcement notice).
- (3) Regulations under this section may in particular –
- (a) make provision about when a fee must be paid;
  - (b) make provision about how a fee is to be calculated (including who is to make the calculation);
  - (c) specify circumstances in which a fee is to be waived or refunded (wholly or in part);
  - (d) specify circumstances in which no fee is to be paid;
  - (e) make provision about the effect of paying or failing to pay a fee in accordance with the regulations (which may include provision that amends, repeals or revokes any enactment, including any provision of this Act).

#### **173 Determination of appeal by appointed person**

- (1) An appeal to which this section applies is to be determined by a person appointed by the Welsh Ministers (instead of by the Welsh Ministers).
- (2) This section applies to –

- (a) an appeal under section 100 (appeal against decision or failure to make decision on application for listed building consent or conservation area consent, for the variation or removal of conditions or for approval of details);
  - (b) an appeal under section 127 (appeal against enforcement notice).
- (3) But this section does not apply to an appeal if –
  - (a) it is an appeal of a description specified in regulations made by the Welsh Ministers, or
  - (b) the Welsh Ministers direct that the appeal is to be determined by them instead of by an appointed person.
- (4) This section does not affect any provision of this Act or of regulations made under it that an appeal may be made to, or that a notice of appeal must be served on, the Welsh Ministers.
- (5) Where an appointed person determines an appeal, the appointed person’s decision is to be treated as the decision of the Welsh Ministers.
- (6) Schedule 12 makes further provision in connection with appointments under subsection (1) and directions under subsection (3)(b).

*Procedural provisions applying to appeals and other proceedings before Welsh Ministers*

#### **174 Choice of inquiry, hearing or written procedure**

- (1) The Welsh Ministers must in each case determine the procedure by which proceedings to which this section applies are to be considered.
- (2) A determination must provide for the proceedings to be considered in one or more of the following ways –
  - (a) at a local inquiry;
  - (b) at a hearing;
  - (c) on the basis of representations in writing.
- (3) The Welsh Ministers must make a determination before the end of the period specified in regulations made by the Welsh Ministers.
- (4) A determination may be varied by a further determination at any time before the proceedings to which it relates are determined.
- (5) The Welsh Ministers must notify the following persons of a determination –
  - (a) the applicant or appellant (as appropriate), and
  - (b) the planning authority concerned.
- (6) The Welsh Ministers must publish the criteria they will apply in making determinations.
- (7) This section applies to the following proceedings –
  - (a) an application referred to the Welsh Ministers under section 94 (reference of application for listed building consent or conservation area consent or for the variation or removal of conditions);

- (b) an appeal under section 100 (appeal against decision or failure to make decision on application for consent, for the variation or removal of conditions or for approval of details);
  - (c) an application for listed building consent or conservation area consent made to the Welsh Ministers under section 106 (urgent works on Crown land);
  - (d) an appeal under section 127 (appeal against enforcement notice).
- (8) The Welsh Ministers may by regulations amend subsection (7) to—
- (a) add proceedings under or by virtue of Part 3, Part 4 or this Part,
  - (b) remove proceedings, or
  - (c) modify a description of proceedings.

### 175 Procedural requirements

- (1) The Welsh Ministers may by regulations make provision about the procedure to be followed in connection with—
- (a) proceedings on any application, appeal or reference made to the Welsh Ministers under or by virtue of Part 3 or 4 (whether it is considered at a local inquiry, at a hearing or on the basis of representations in writing);
  - (b) any other local inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of any provision of those Parts or this Part.
- (2) The regulations may include provision about—
- (a) the procedure to be followed in connection with matters preparatory or subsequent to an inquiry or hearing or to the making of representations in writing;
  - (b) the conduct of proceedings.
- (3) The regulations may include provision about the procedure to be followed—
- (a) where steps have been taken with a view to the holding of an inquiry or hearing which does not take place,
  - (b) where steps have been taken with a view to the determination of any matter by a person appointed by the Welsh Ministers and the proceedings are the subject of a direction that the matter must instead be determined by the Welsh Ministers, or
  - (c) where steps have been taken in pursuance of such a direction and a further direction is given revoking that direction,

and may provide that such steps are to be treated as compliance, in whole or in part, with the requirements of the regulations.

- (4) The regulations may—

- (a) specify a time limit within which a party to proceedings must submit representations in writing and any supporting documents, or enable the Welsh Ministers to give directions setting the time limit in a particular case or in cases of a particular description;
  - (b) enable the Welsh Ministers to proceed to a decision taking into account only the representations in writing and supporting documents that were submitted within the time limit;
  - (c) enable the Welsh Ministers, after giving the parties notice in writing of their intention to do so, to proceed to a decision even though no representations in writing were submitted within the time limit, if they consider that they have sufficient material before them to enable them to reach a decision on the merits of the case.
- (5) The regulations may also make provision about the circumstances in which –
- (a) a direction about the payment of the Welsh Ministers' costs may be given under section 180;
  - (b) an order about the payment of a party's costs may be made under section 181.
- (6) The regulations may provide that in circumstances specified in the regulations a matter may not be raised in proceedings on an appeal to the Welsh Ministers unless –
- (a) the matter was previously raised before a time specified in the regulations, or
  - (b) it is shown that the matter could not have been raised before that time.

*Local inquiries*

**176 Power of Welsh Ministers to hold local inquiry**

- (1) The Welsh Ministers may cause a local inquiry to be held for the purposes of the exercise of any of their functions under or by virtue of Part 3, Part 4 or this Part.
- (2) See also paragraph 3(1) of Schedule 12 for the power of a person appointed by the Welsh Ministers under section 173 to hold a local inquiry in connection with an appeal.

**177 Power of person holding inquiry to require evidence**

- (1) A person holding a local inquiry under this Part may by summons require any person –
  - (a) to attend the inquiry, at a time and place stated in the summons, and to give evidence, or
  - (b) to produce any documents in the person's possession or under the person's control which relate to any matter in question at the inquiry.
- (2) The person holding the inquiry may take evidence on oath, and for that purpose may administer oaths.
- (3) A summons under this section does not require a person to attend the inquiry unless the person's necessary expenses of attending are paid or offered to the person.

- (4) A person may not be required under this section to produce the title (or any instrument relating to the title) of any land which does not belong to a local authority.
- (5) It is an offence for a person to –
  - (a) refuse or deliberately fail to comply with a requirement of a summons under this section, or
  - (b) deliberately alter, suppress, conceal or destroy a document the person is required, or is liable to be required, to produce under this section.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale or imprisonment for a term not exceeding the maximum term for summary offences, or both.
- (7) In subsection (6) “the maximum term for summary offences” means –
  - (a) in relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 (c. 44) comes into force, 6 months;
  - (b) in relation to an offence committed after it comes into force, 51 weeks.

#### 178 Access to evidence at inquiry

- (1) At a local inquiry held under this Part –
  - (a) oral evidence must be heard in public, and
  - (b) documentary evidence must be available for public inspection.
- (2) But if a ministerial authority is satisfied that both of the conditions in subsection (3) are met in relation to an inquiry, it may direct that evidence of a description specified in the direction is to be heard or available for inspection at that inquiry only by persons who are specified in the direction or of a description specified in it.
- (3) The conditions are –
  - (a) that giving evidence of a particular description in public or making it available for public inspection would be likely to result in the disclosure of information about –
    - (i) national security, or
    - (ii) the measures taken or to be taken to ensure the security of any land or other property, and
  - (b) that the public disclosure of the information would be against the national interest.
- (4) If a ministerial authority is considering giving a direction under this section, the Counsel General may appoint a person (an “appointed representative”) to represent the interests of any person who will be prevented from hearing or inspecting any evidence at a local inquiry if the direction is given.
- (5) If there is no appointed representative when a ministerial authority gives a direction under this section, the Counsel General may at any time appoint a person as an appointed representative for the purposes of the inquiry.
- (6) The Welsh Ministers may by regulations make provision about –

- (a) the procedure to be followed by a ministerial authority before it gives a direction under this section in a case where there is an appointed representative;
  - (b) the functions of an appointed representative.
- (7) In this section and section 179, “ministerial authority” means the Welsh Ministers or the Secretary of State.

**179 Payment of appointed representative where access to evidence restricted**

- (1) This section applies if a person is appointed under section 178 as an appointed representative for the purposes of a local inquiry, whether or not the inquiry takes place.
- (2) A ministerial authority may direct a person (“the responsible person”) to pay the fees and expenses of the appointed representative.
- (3) The responsible person must be a person that the ministerial authority considers is, or would have been, interested in the inquiry in relation to –
  - (a) national security, or
  - (b) the measures taken or to be taken to ensure the security of any land or other property.
- (4) If the appointed representative and the responsible person are unable to agree the amount of the fees and expenses, the amount must be determined by the ministerial authority that gave the direction.
- (5) The ministerial authority must cause the amount agreed between the appointed representative and the responsible person, or determined by the ministerial authority, to be certified.
- (6) The certified amount is recoverable from the responsible person as a debt.

*Costs of proceedings before Welsh Ministers*

**180 Payment of costs of Welsh Ministers**

- (1) This section applies to the following proceedings –
  - (a) proceedings on an application, appeal or reference made to the Welsh Ministers under or by virtue of Part 3 or 4 (whether it is considered at a local inquiry, at a hearing or on the basis of representations in writing);
  - (b) any other local inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of any provision of those Parts or this Part.
- (2) The Welsh Ministers may give a direction requiring the applicant or appellant, or a planning authority or other party to the proceedings, to pay the costs incurred by the Welsh Ministers in relation to the proceedings (or so much of those costs as the Welsh Ministers may direct).
- (3) The costs incurred by the Welsh Ministers in relation to any proceedings include –

- (a) the entire administrative cost incurred by the Welsh Ministers in connection with the proceedings, including in particular a reasonable amount that they determine in respect of general staff costs and overheads of the Welsh Government;
  - (b) costs in respect of an inquiry or hearing that does not take place.
- (4) The Welsh Ministers may by regulations specify a standard daily amount for proceedings of a specified description.
- (5) Where proceedings of a specified description take place, the costs incurred by the Welsh Ministers are to be taken to be –
  - (a) the standard daily amount for each day (or an appropriate proportion of that amount for a part of a day) on which a specified person is engaged in dealing with the case;
  - (b) costs actually incurred in connection with dealing with the case on –
    - (i) travelling or subsistence allowances, or
    - (ii) the provision of accommodation or other facilities;
  - (c) any costs attributable to the appointment of specified persons to assist in dealing with the case;
  - (d) any legal costs or disbursements incurred or made by or on behalf of the Welsh Ministers in connection with the case.
- (6) In this section “specified” means specified in regulations made by the Welsh Ministers.

## **181 Orders relating to costs of parties**

- (1) This section applies to the following proceedings –
  - (a) proceedings on an application, appeal or reference made to the Welsh Ministers under or by virtue of Part 3 or 4 (whether it is considered at a local inquiry, at a hearing or on the basis of representations in writing);
  - (b) any other local inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of any provision of those Parts or this Part.
- (2) The Welsh Ministers may make orders about –
  - (a) the costs of the applicant or appellant, or a planning authority or other party to the proceedings (which may include costs in respect of an inquiry or hearing that does not take place), and
  - (b) the person or persons who must pay the costs.
- (3) But the Welsh Ministers may not order a person to pay the costs of another party unless they are satisfied that –
  - (a) the person has behaved unreasonably in relation to the proceedings, and
  - (b) the person’s unreasonable behaviour has caused the other party to incur unnecessary or wasted expenditure.
- (4) The power to make orders under this section must also be exercised in accordance with any provision made under section 175(5)(b) (procedural requirements).



**CHAPTER 3****VALIDITY AND CORRECTION OF DECISIONS***Validity of decisions and orders***182 Validity of certain decisions and orders relating to buildings**

- (1) The validity of a decision or order to which this section applies may not be questioned in any legal proceedings except an application for statutory review under section 183.
- (2) The decisions to which this section applies are –
  - (a) a decision on a review under section 81 (review of listing decision);
  - (b) a decision on an application referred to the Welsh Ministers under section 94 (reference of application for listed building consent or conservation area consent or for the variation or removal of conditions);
  - (c) a decision on an appeal under section 100 (appeal against decision or failure to make decision on application for consent, for the variation or removal of conditions or for approval of details);
  - (d) a decision on an application for listed building consent or conservation area consent made to the Welsh Ministers under section 106 (urgent works on Crown land);
  - (e) a decision under paragraph 2 of Schedule 9 to confirm or not to confirm a purchase notice, including –
    - (i) a decision to confirm the notice in relation to only part of the land to which it relates, and
    - (ii) a decision to grant listed building consent or conservation area consent, or direct that consent must be granted, instead of confirming the notice in relation to the land or any part of it;
  - (f) a decision under section 128(3)(a) or (b) (determination of appeal against enforcement notice) to grant listed building consent or conservation area consent or remove a condition of consent.
- (3) The orders to which this section applies are –
  - (a) an order under section 107 (modification or revocation of consent) made by a planning authority (whether or not it has been confirmed by the Welsh Ministers) or the Welsh Ministers;
  - (b) an order under section 115 (termination of listed building partnership agreement or provision of agreement) made by a planning authority or the Welsh Ministers;
  - (c) an order under section 181 (orders relating to costs of parties) made in connection with a decision mentioned in subsection (2) or an order mentioned in paragraph (a) or (b).
- (4) This section does not prevent any court exercising any jurisdiction in relation to a refusal or failure to make a decision to which this section applies.

**183 Application to High Court for statutory review of decision or order**

- (1) A person aggrieved by a decision or order to which section 182 applies, or the authority directly concerned with such a decision or order, may make an application for statutory review.
- (2) An application for statutory review is an application to the High Court questioning the validity of the decision or order on the grounds that –
  - (a) it is not within the powers conferred by this Act, or
  - (b) a requirement of this Act, or of subordinate legislation made under it, has not been complied with in relation to the decision or order.
- (3) An application for statutory review may only be made with the permission of the High Court.
- (4) An application for permission must be made before the end of 6 weeks beginning with the day after –
  - (a) in the case of an application relating to a decision mentioned in section 182(2), the day the decision is made;
  - (b) in the case of an application relating to an order made by a planning authority under section 107 and confirmed by the Welsh Ministers (with or without modifications), the day the order is confirmed;
  - (c) in the case of any other application relating to an order under section 107, the day the order takes effect;
  - (d) in the case of an application relating to an order made by a planning authority under section 115, the day the order is confirmed;
  - (e) in the case of an application relating to any other order mentioned in section 182(3), the day the order is made.
- (5) When considering whether to give permission, the High Court may make an interim order suspending the operation of the decision or order to which the proposed application for statutory review relates until the final determination of the proceedings on –
  - (a) the application for permission, or
  - (b) where permission is given, the application for statutory review.
- (6) On an application for statutory review the High Court –
  - (a) may make an interim order suspending the operation of the decision or order to which the application relates until the proceedings are finally determined;
  - (b) may quash that decision or order if satisfied that –
    - (i) it is not within the powers conferred by this Act, or
    - (ii) the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement of this Act, or of subordinate legislation made under it, in relation to the decision or order.
- (7) For the purposes of this section the authority directly concerned with a decision or order is –
  - (a) in the case of a decision on an application referred to the Welsh Ministers under section 94, the planning authority that made the reference;

- (b) in the case of a decision on an appeal under section 100, the planning authority to which the application to which the appeal relates was made;
- (c) in the case of a decision to confirm or not to confirm a purchase notice –
  - (i) the planning authority on which the purchase notice was served (see section 109), and
  - (ii) if the Welsh Ministers have modified the notice wholly or in part by substituting another local authority or statutory undertaker for the planning authority, that other local authority or statutory undertaker;
- (d) in the case of a decision under section 128(3)(a) or (b) on an appeal against an enforcement notice issued by a planning authority, the authority that issued the notice;
- (e) in the case of an order under section 107, the planning authority in whose area the building to which the order relates is situated;
- (f) in the case of an order under section 115, any planning authority that is or was a party to the listed building partnership agreement to which the order relates;
- (g) in the case of an order made under section 181 in connection with a decision or order mentioned in paragraphs (a) to (f), the authority directly concerned with that decision or order.

#### 184 **Appeal to High Court against decision relating to enforcement notice**

- (1) Rules of court must provide either –
  - (a) that an interested person may appeal to the High Court on a point of law against a relevant decision made by the Welsh Ministers, or
  - (b) that where the Welsh Ministers make a relevant decision an interested person may require them to state and sign a case for the opinion of the High Court.
- (2) For the purposes of this section –
  - (a) a relevant decision is any decision (including a direction or order) made in proceedings on an appeal under section 127 against an enforcement notice, other than a decision under section 128(3)(a) or (b) to grant consent or remove a condition of consent;
  - (b) the following are interested persons –
    - (i) the person who made the appeal,
    - (ii) the planning authority in whose area the building to which the enforcement notice relates is situated, and
    - (iii) any other person who has an interest in the building.
- (3) At any stage of the proceedings on an appeal under section 127, the Welsh Ministers may state a question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.

- (4) A decision of the High Court on a case stated under subsection (3) is to be treated as a judgment of the court for the purposes of section 16 of the Senior Courts Act 1981 (c. 54) (jurisdiction of Court of Appeal to hear and determine appeals from judgments or orders of High Court).
- (5) Where proceedings are brought by virtue of this section, the High Court or the Court of Appeal (as the case may be) may order that the enforcement notice is to have effect, either in full or to the extent specified in the order, pending the final determination of the proceedings and any re-hearing and determination of the appeal by the Welsh Ministers.
- (6) An order under subsection (5) may be made on whatever terms the court considers appropriate, which may include terms requiring the planning authority to give an undertaking as to damages or any other matter.
- (7) Rules of court may make provision –
  - (a) for the Welsh Ministers to be a party to proceedings in the High Court or the Court of Appeal brought by virtue of this section, either generally or in circumstances specified in the rules;
  - (b) about the powers of the High Court or the Court of Appeal to remit the matter to the Welsh Ministers for re-hearing and determination in accordance with the opinion or direction of the court.
- (8) Proceedings in the High Court under this section may only be brought with the permission of the High Court.
- (9) An appeal to the Court of Appeal by virtue of this section may only be brought with the permission of the High Court or the Court of Appeal.

*Correction of decisions of Welsh Ministers*

**185 Meaning of “decision document” and “correctable error”**

- (1) This section applies for the purposes of sections 186 and 187.
- (2) “Decision document” means a document which records –
  - (a) a decision to which section 182 applies (see subsection (2) of that section),
  - (b) a decision on an appeal under section 127 (appeal against enforcement notice), or
  - (c) any other decision made under or by virtue of Part 3, Part 4 or this Part that is of a description specified in regulations made by the Welsh Ministers.
- (3) “Correctable error” means an error which –
  - (a) is contained in any part of the decision document which records the decision, but
  - (b) is not part of any reasons given for the decision,
 and “error” includes omission.

**186 Power to correct correctable errors in decision documents**

- (1) This section applies where a decision document is issued which contains a correctable error.

- (2) If, before the end of the review period, the Welsh Ministers –
  - (a) receive a request in writing to correct the error from any person, or
  - (b) send a statement in writing to the applicant which explains the error and states that they are considering correcting it,the Welsh Ministers must decide whether or not to correct the error.
- (3) But the Welsh Ministers may not make a correction unless they have informed the planning authority that they have received the request mentioned in subsection (2)(a) or sent the statement mentioned in subsection (2)(b).
- (4) The review period is –
  - (a) where the decision document records a decision to which section 182 applies, the period within which an application for permission to apply for statutory review under section 183 may be made to the High Court;
  - (b) where the decision document records a decision on an appeal under section 127 to which section 182 does not apply, the period within which an application for permission to bring proceedings under section 184 may be made to the High Court, not including any time by which the High Court may extend that period,and it does not matter whether any such application is actually made.
- (5) As soon as practicable after the Welsh Ministers correct the error or decide not to correct it, they must issue a correction notice.
- (6) A correction notice is a notice which –
  - (a) specifies the correction of the error, or
  - (b) gives notice of a decision not to correct it.
- (7) The Welsh Ministers must serve the correction notice on –
  - (a) the applicant;
  - (b) if the applicant is not the owner of the building or other land to which the original decision relates, every owner of the building or land;
  - (c) the planning authority;
  - (d) if the correction was requested by any other person, that person;
  - (e) any other person who is specified, or is of a description specified, in regulations made by the Welsh Ministers.
- (8) Where the decision document was issued by a person appointed under section 173, the functions of the Welsh Ministers under this section may also be exercised by that person or by any other person appointed under that section to determine appeals instead of the Welsh Ministers.
- (9) In this section –

“the applicant” (“*y ceisydd*”) means the person who made the application or appeal, or served the purchase notice, to which the original decision relates;

“owner” (“*perchennog*”), in relation to a building or other land, means –

- (a) an owner of the freehold estate in the building or land, or
- (b) a tenant under a lease of the building or land granted or extended for a fixed term that has at least 7 years left to run;

“the planning authority” (“*yr awdurdod cynllunio*”) means the planning authority in whose area the building or other land to which the original decision relates is situated.

### **187 Effect and validity of correction notice**

- (1) If a correction is made under section 186 –
  - (a) the original decision is to be treated as not having been made;
  - (b) the decision is to be treated for all purposes as having been made on the day the correction notice is issued.
- (2) If a correction is not made –
  - (a) the original decision continues to have effect;
  - (b) section 186 and this section do not affect anything done in pursuance of or in relation to the decision.
- (3) Where a correction notice is issued in relation to a decision to which section 182 applies, section 183 applies to the correction notice as if it were a decision to which section 182 applies.
- (4) Where a correction notice is issued in relation to a decision to which section 184 applies, section 184 applies to the correction notice as if it were a decision to which that section applies.
- (5) Where regulations under section 185(2)(c) specify a description of decision, the Welsh Ministers must by regulations make provision which corresponds to section 183 or 184 for questioning the validity of a correction notice issued in relation to a decision of that description.
- (6) The validity of a correction notice may not be questioned in any legal proceedings except to the extent provided by virtue of this section.

## **CHAPTER 4**

### **GENERAL**

#### *The Crown*

### **188 Representation of Crown and Duchy interests in land**

- (1) This section applies to anything that is required or authorised to be done for the purposes of Part 3, Part 4 or this Part by or in relation to an owner of an interest in land (including an interest only as an occupier of the land).
- (2) To the extent that the interest is a Crown interest or a Duchy interest, the thing must be done by or in relation to the appropriate Crown authority.

**189 Service of documents on the Crown**

- (1) This section applies where a notice or other document is required or authorised under or by virtue of Part 3, Part 4 or this Part to be served on the Crown.
- (2) The document must be served on the appropriate Crown authority.
- (3) Sections 205 and 206 (general provisions about methods of service) do not apply to the service of the document.

**190 Enforcement steps in relation to Crown land**

- (1) A planning authority must not take a relevant enforcement step in relation to Crown land without the agreement of the appropriate Crown authority.
- (2) The appropriate Crown authority may give agreement subject to conditions.
- (3) In this section “relevant enforcement step” means anything done in connection with the enforcement of a requirement or prohibition imposed by or under Part 3, Part 4 or this Part.
- (4) It includes –
  - (a) entering land, and
  - (b) bringing proceedings or making an application.
- (5) But it does not include –
  - (a) issuing or serving a notice (for example an enforcement notice or temporary stop notice), or
  - (b) making an order (for example an order under section 107 or 115).

*Interpretation***191 Meaning of “local authority” in this Part**

In this Part “local authority” has the meaning given by section 157.

**PART 6****OTHER HERITAGE ASSETS AND RECORDS***Historic parks and gardens***192 Duty to maintain and publish register of historic parks and gardens**

- (1) The Welsh Ministers must maintain a register of parks and gardens in Wales they consider to be of special historic interest, and must publish the up-to-date register.
- (2) The Welsh Ministers must decide whether, or to what extent, to include as part of the registration of a park or garden –
  - (a) any building or water on, adjoining or adjacent to it, or
  - (b) any land adjoining or adjacent to it.
- (3) The Welsh Ministers may amend the register by –
  - (a) adding an entry,

- (b) removing an entry, or
  - (c) amending an entry.
- (4) As soon as possible after amending the register, the Welsh Ministers must –
- (a) serve notice that they have done so on the persons mentioned in subsection (5), and
  - (b) in the case of any amendment under subsection (3)(a) or (c), include with the notice a copy of the entry or amended entry in the register.
- (5) The persons referred to in subsection (4) are –
- (a) every owner and occupier of the park or garden in question (including, if different, the owners and occupiers of anything appearing in the register by virtue of subsection (2));
  - (b) the planning authority in whose area the park or garden is situated (including, if different, the planning authority in whose area anything appearing in the register by virtue of subsection (2) is situated).
- (6) In this section references to parks and gardens include –
- (a) places of recreation, and
  - (b) any other designed grounds (including designed ornamental landscapes).

*Historic place names*

**193 Duty to maintain and publish list of historic place names**

The Welsh Ministers must maintain a list of historic place names in Wales, and must publish the up-to-date list.

*Historic environment records*

**194 Duty to maintain historic environment records**

- (1) The Welsh Ministers must maintain a historic environment record for every local authority area.
- (2) A historic environment record is a record which provides –
- (a) details of every scheduled monument in the authority's area,
  - (b) details of every listed building in the authority's area,
  - (c) details of every conservation area in the authority's area,
  - (d) details of every park or garden in the authority's area which is included in the register of historic parks and gardens maintained under section 192,
  - (e) details of every conflict site in the authority's area which the Welsh Ministers consider to be of historic interest,
  - (f) where a public authority (whether by itself or jointly with other persons) maintains a list of historic landscapes in Wales, details of every historic landscape in the local authority's area which is included in the list,
  - (g) details of every world heritage site in the authority's area,



- (h) details of every other area or site in the authority's area which the authority considers or the Welsh Ministers consider to be of local historic, archaeological or architectural interest,
  - (i) information about the way in which the historic, archaeological or architectural development of the authority's area, or any part of it, has contributed to the present character of the area or part and about how that character may be preserved,
  - (j) details of relevant investigations carried out in the authority's area and of the findings of those investigations, and
  - (k) a means of accessing details of every historic place name in the authority's area which is included in the list maintained under section 193.
- (3) In subsection (2)(e) "conflict site" means –
- (a) a battlefield or a site on which some other conflict involving military forces took place, or
  - (b) a site on which significant activities relating to a battle or other conflict involving military forces occurred.
- (4) In subsection (2)(g) "world heritage site" means anything appearing on the World Heritage List kept under Article 11(2) of the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage adopted at Paris on 16 November 1972.
- (5) In subsection (2)(j) "relevant investigation" means –
- (a) an investigation by a local authority or the Welsh Ministers for the purpose of obtaining information of historic, archaeological or architectural interest relating to the authority's area, and
  - (b) any other investigation for that purpose which the Welsh Ministers consider appropriate to include in the record.
- (6) The Welsh Ministers may by regulations amend this section to vary the meaning of "historic environment record".
- (7) Before making regulations under subsection (6), the Welsh Ministers must consult –
- (a) every local authority, and
  - (b) any other persons the Welsh Ministers consider appropriate.
- (8) For the purposes of this section –
- (a) any reference to a local authority's area includes, in the case of an authority whose area includes part of the seashore, any part of the sea that lies seaward from that part of the shore and forms part of Wales, and
  - (b) an area, site or thing is to be treated as being in a local authority's area if any part of it is in the area.
- (9) In this section and section 196, "local authority" means a county council or county borough council in Wales.

**195 Access to historic environment records**

- (1) The Welsh Ministers must –
  - (a) make every historic environment record available for public inspection, and
  - (b) make available to a person wishing to inspect a historic environment record advice on or assistance with retrieving and understanding information provided in the record or accessed by means of the record.
- (2) If –
  - (a) a person requests a copy of part of a historic environment record or of details accessed by means of such a record, and
  - (b) the Welsh Ministers consider that the request is reasonable,the Welsh Ministers must provide the person with that copy or those details.
- (3) If –
  - (a) a person requests the retrieval of information provided in a historic environment record or accessed by means of such a record, and
  - (b) the Welsh Ministers consider that the request is reasonable,the Welsh Ministers must compile a document for the person containing the information.
- (4) In assessing whether a request is reasonable for the purposes of subsection (2) or (3), the matters which the Welsh Ministers may take into account include any previous requests made by or on behalf of the person concerned.
- (5) The Welsh Ministers may charge a fee for –
  - (a) providing advice or assistance under subsection (1)(b);
  - (b) providing a copy or details under subsection (2);
  - (c) compiling a document under subsection (3).
- (6) A fee must be calculated by reference to the cost of providing the service to which the fee relates.

**196 Guidance to certain public bodies about historic environment records**

- (1) The Welsh Ministers must issue guidance to the bodies listed in subsection (2) on –
  - (a) how the bodies may contribute to the compilation of historic environment records and assist in maintaining the records, and
  - (b) the use of historic environment records in the exercise of the bodies' functions.
- (2) The bodies are –
  - (a) local authorities,
  - (b) National Park authorities in Wales, and
  - (c) Natural Resources Wales.
- (3) Those bodies must have regard to the guidance.
- (4) Before issuing guidance under this section, the Welsh Ministers must consult –
  - (a) the bodies, and

- (b) any other persons they consider appropriate.
- (5) The Welsh Ministers must lay before Senedd Cymru any guidance issued under this section.

## PART 7 GENERAL

### *Powers to require information about interests in land*

#### **197 Power to require information by notice**

- (1) A relevant authority may serve a notice (an “information notice”) requiring the occupier of any land or a person who receives rent (either directly or indirectly) in respect of any land to confirm in writing –
  - (a) the nature of the person’s interest in the land, and
  - (b) the name and address of any other person known to the person as having an interest in the land.
- (2) But a relevant authority may not serve an information notice unless the information required by the notice is needed by the authority to enable it to –
  - (a) exercise any of the authority’s functions under or by virtue of Part 2, or
  - (b) make an order or issue or serve a notice or other document under or by virtue of Part 3, 4 or 5.
- (3) An information notice may require the information to be given within –
  - (a) 21 days beginning with the day after the day the notice is served, or
  - (b) any longer period specified by the notice or allowed by the relevant authority.
- (4) In this section “relevant authority” means –
  - (a) the Welsh Ministers;
  - (b) a local authority (within the meaning given by section 157).

#### **198 Offences in connection with section 197**

- (1) A person required to provide information by a notice under section 197 commits an offence if the person fails, without reasonable excuse, to provide the information.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person required to provide information by a notice under section 197 commits an offence if the person, in purported compliance with the notice, knowingly provides information which is false or misleading in a material respect.

- (4) A person guilty of an offence under subsection (3) is liable on summary conviction, or on conviction on indictment, to a fine.

## 199 Information about interests in Crown land

- (1) This section applies to an interest in Crown land which is not a private interest.
- (2) Section 197 does not apply to an interest to which this section applies.
- (3) But the Welsh Ministers may, for the purpose of enabling a relevant authority to exercise a function mentioned in section 197(2)(a) or (b), request the appropriate Crown authority to confirm in writing –
  - (a) the nature of the authority's interest in the land;
  - (b) the name and address of any other person known to the authority as having an interest in the land.
- (4) The appropriate Crown authority must comply with a request under subsection (3) except to the extent –
  - (a) that the information requested is not within the knowledge of the authority, or
  - (b) that to do so will disclose information about –
    - (i) national security, or
    - (ii) the measures taken or to be taken to ensure the security of any land or other property.

### *Offences*

## 200 Offences by bodies corporate

- (1) This section applies where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of –
  - (a) a senior officer of the body, or
  - (b) a person who was purporting to be a senior officer of the body.
- (2) The senior officer or person (as well as the body corporate) is guilty of the offence, and is liable to be proceeded against and punished accordingly.
- (3) In this section "senior officer" means a director, manager, secretary or other similar officer of the body corporate.
- (4) But in the case of a body corporate whose affairs are managed by its members, "director" means a member of the body.

## 201 Civil sanctions

- (1) The Welsh Ministers may by regulations make any provision in relation to an offence under this Act that they could make under Part 3 of RESA 2008 (civil sanctions) if, for the purposes of that Part –
  - (a) the Welsh Ministers or any other authority which has an enforcement function in relation to the offence were a regulator, and
  - (b) the offence were a relevant offence in relation to that regulator.

- (2) Sections 59(3) and 60(1) and (2) of RESA 2008 (consultation) apply to regulations under subsection (1) as they apply to an order under Part 3 of RESA 2008.
- (3) Sections 63 to 70 of RESA 2008 (guidance, exercise of powers, payment into Welsh Consolidated Fund and disclosure of information) apply in relation to provision made under subsection (1) as they apply in relation to provision made under Part 3 of RESA 2008.
- (4) In subsection (1) the reference to an authority which has an enforcement function is to be interpreted in accordance with section 71 of RESA 2008.
- (5) In this section “RESA 2008” means the Regulatory Enforcement and Sanctions Act 2008 (c. 13).

### *Compensation*

#### **202 Making claims for compensation**

- (1) The Welsh Ministers may by regulations –
  - (a) make provision about how a claim for compensation under this Act must be made;
  - (b) amend any provision of this Act which specifies the period within which a claim for compensation must be made.
- (2) The Welsh Ministers may extend the period for making a claim for compensation under this Act in a particular case, if they are satisfied that there are good reasons for doing so.
- (3) The period for making a claim may be extended –
  - (a) at any time, whether before or after the period ends, and
  - (b) more than once.

#### **203 Determination of compensation claims by Upper Tribunal**

- (1) Any dispute about compensation under this Act is to be referred to and determined by the Upper Tribunal.
- (2) Section 4 of the Land Compensation Act 1961 (c. 33) (costs) applies to the determination of a question referred under this section as it applies to the determination of a question referred under section 1 of that Act, but as if references to the acquiring authority were references to the person from whom compensation is claimed.

#### **204 Compensation for depreciation of value of land**

- (1) The rules in section 5 of the Land Compensation Act 1961 (c. 33) have effect for the purpose of assessing any compensation for depreciation payable under this Act, so far as relevant and with any necessary modifications, as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (2) Where an interest in land is subject to a mortgage –
  - (a) any compensation for depreciation that is payable under this Act in respect of the interest must be assessed as if the interest were not subject to the mortgage;

- (b) a claim for compensation for depreciation may be made by any mortgagee of the interest, but that does not affect the right of the person whose interest is subject to the mortgage to make a claim;
  - (c) no compensation for depreciation is payable in respect of the interest of the mortgagee (as distinct from the interest that is subject to the mortgage);
  - (d) any compensation for depreciation that is payable in respect of the interest subject to the mortgage must be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee; and it must be applied by the mortgagee to whom it is paid as if it were proceeds of sale.
- (3) In this section “compensation for depreciation” means compensation for loss or damage consisting of depreciation of the value of an interest in land.

*Service of documents*

**205 Service of notices and other documents: general**

- (1) This section applies where a provision contained in or made under this Act requires or authorises a notice or other document to be served on a person (whether the provision uses the word “serve” or “give” or any other term).
- (2) The document may be served on the person in any of the following ways –
- (a) by handing it to the person or, in the case of a person who is a body corporate, handing it to the secretary or clerk of the body at its registered or principal office;
  - (b) by leaving it at the person’s usual or last known place of residence or, if the person has given an address for service, at that address;
  - (c) by sending it by post in a pre-paid letter –
    - (i) addressed to the person at the person’s usual or last known place of residence or, in the case of a person who is a body corporate, addressed to the secretary or clerk of the body at its registered or principal office, or
    - (ii) if the person has given an address for service, addressed to the person at that address;
  - (d) if the person has given an address for service using electronic communications, by sending it to the person at that address using an electronic communication which complies with the conditions in subsection (3).
- (3) The conditions are that the document is –
- (a) capable of being accessed by the person to whom it is sent,
  - (b) legible in all material respects, and
  - (c) capable of being used for subsequent reference.
- (4) Where an electronic communication is used to serve a document on a person and is received by the person outside the person’s business hours, the document is to be treated as having been served on the next working day.

- (5) See section 233 of the Local Government Act 1972 (c. 70) for additional provision about the methods by which local authorities may serve documents.

**206 Additional provision about service on persons interested in or occupying land**

- (1) This section applies (in addition to section 205) where a provision contained in or made under this Act requires or authorises a notice or other document to be served on a person –
- (a) as having an interest in a building, monument or land, or
  - (b) as an occupier of a building, monument or land.
- (2) Where the document is to be served on a person as having an interest in a building, monument or land, and the name of the person cannot be discovered after making reasonable inquiries, the document may be addressed to the person as “the owner” of the building, monument or land (which must be described).
- (3) Where the document is to be served on a person as an occupier of a building, monument or land, it may be addressed to the person by name or as “the occupier” of the building, monument or land (which must be described).
- (4) Subsection (5) applies –
- (a) where –
    - (i) a document is to be served on a person as having an interest in a building, monument or land,
    - (ii) the person’s usual or last known place of residence cannot be discovered after making reasonable inquiries, and
    - (iii) the person has not given an address for the service of the document, or
  - (b) where a document is to be served on a person as an occupier of a building, monument or land.
- (5) The document is to be treated as properly served if it is addressed to the person, clearly marked as an important communication affecting the person’s property, and is –
- (a) sent to the building, monument or land by post and not returned as undelivered,
  - (b) handed to a person who is, or appears to be, resident or employed in or on the building, monument or land, or
  - (c) attached conspicuously to the building or monument or to an object on the site of the monument or on the land.

*Special cases*

**207 Definitions relating to the Crown**

- (1) This section applies for the purposes of this Act.
- (2) “Crown land” means land in which there is a Crown interest or a Duchy interest.

- (3) “Crown interest” means an interest which –
  - (a) belongs to His Majesty in right of the Crown or in right of His private estates, or
  - (b) belongs to a government department or is held in trust for His Majesty for the purposes of a government department.
- (4) “Duchy interest” means –
  - (a) an interest belonging to His Majesty in right of the Duchy of Lancaster, or
  - (b) an interest belonging to the Duchy of Cornwall.
- (5) “Private interest”, in relation to Crown land, means an interest which is neither a Crown interest nor a Duchy interest.
- (6) “Appropriate Crown authority”, in relation to Crown land, means –
  - (a) in the case of land belonging to His Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
  - (b) in relation to any other land belonging to His Majesty in right of the Crown, the government department having the management of the land;
  - (c) in relation to land belonging to His Majesty in right of His private estates, a person appointed by His Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Welsh Ministers;
  - (d) in relation to land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (e) in relation to land belonging to the Duchy of Cornwall, a person appointed by the Duke of Cornwall or by the possessor for the time being of the Duchy;
  - (f) in the case of land belonging to a government department or held in trust for His Majesty for the purposes of a government department, the department.
- (7) “The Crown” is to be treated as including the Senedd Commission.
- (8) Any question that arises about who is the appropriate Crown authority in relation to any land must be referred to the Treasury, whose decision is final.
- (9) In this section –
  - (a) references to His Majesty’s private estates are to be read in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37);
  - (b) references to a government department include a Minister of the Crown and the Senedd Commission (and see section 85 of the Government of Wales Act 2006 (c. 32), which provides for references to a government department to include the Welsh Ministers, the First Minister and the Counsel General).

## 208 Church of England land

- (1) Where any provision contained in or made under this Act requires or authorises a notice or other document to be served on an owner of land, and the land is Church of England land, a corresponding document must also be served on the appropriate Board of Finance.
- (2) Church of England land belonging to an ecclesiastical benefice which is vacant is to be treated for the purposes of this Act as belonging to the appropriate Board of Finance.



- (3) Any compensation payable under this Act in relation to Church of England land must be –
- (a) paid to the appropriate Board of Finance, and
  - (b) applied by that Board for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Church Measure authorising or disposing of the proceeds of such a sale.
- (4) Where an amount is recoverable under section 22 in relation to Church of England land, the appropriate Board of Finance may apply any money or securities held by it towards repaying that amount.
- (5) In this section –
- “appropriate Board of Finance” (*“Bwrdd Cyllid priodol”*), in relation to any land, means the Diocesan Board of Finance for the diocese in which the land is situated;
- “Church Measure” (*“Mesur gan Eglwys Loegr”*) means a Measure of the Church Assembly or of the General Synod of the Church of England;
- “Church of England land” (*“tir Eglwys Loegr”*) means land which –
- (a) belongs to an ecclesiastical benefice of the Church of England,
  - (b) is or forms part of a church subject to the jurisdiction of a bishop of a diocese of the Church of England or the site of such a church, or
  - (c) is or forms part of a burial ground subject to the jurisdiction of such a bishop.

*General*

**209 Regulations under this Act**

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) A power to make regulations under this Act includes power –
  - (a) to make different provision for different purposes;
  - (b) to make incidental, supplementary, consequential, transitory, transitional or saving provision.
- (3) In the case of regulations made under the powers mentioned in subsection (4), the provision that may be made by virtue of subsection (2)(b) includes provision that amends, repeals or revokes any enactment, including any provision of this Act.
- (4) The powers referred to in subsection (3) are the powers conferred by –
  - (a) section 167 (fees for exercise of planning authority functions);
  - (b) section 172 (fees for appeals relating to listed buildings and buildings in conservation areas);
  - (c) section 174(8) (proceedings for which Welsh Ministers must determine procedure);
  - (d) sections 185(2)(c), 186(7)(e) and 187(5) (correction of decisions).

- (5) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru –
- (a) regulations under section 2(3) (religious buildings that are to be treated as monuments);
  - (b) regulations under section 26(8) (application of provisions to scheduled monument partnership agreements);
  - (c) regulations under section 114(8) (application of provisions to listed building partnership agreements);
  - (d) regulations under section 147 (steps for preservation of listed buildings in disrepair);
  - (e) regulations under section 167 (fees for exercise of planning authority functions);
  - (f) regulations under section 172 (fees for appeals relating to listed buildings and buildings in conservation areas);
  - (g) regulations under section 201 (civil sanctions);
  - (h) regulations that amend or repeal any enactment contained in primary legislation (including any provision of this Act).
- (6) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of Senedd Cymru.
- (7) In subsection (5)(h) “primary legislation” means –
- (a) an Act of Senedd Cymru;
  - (b) an Assembly Measure;
  - (c) an Act of the Parliament of the United Kingdom.

## 210 Interpretation

In this Act –

“address” (“*cyfeiriad*”), in relation to electronic communications, means any number or address used for the purpose of electronic communications;

“appropriate Crown authority” (“*awdurdod priodol y Goron*”) has the meaning given by section 207(6);

“building” (“*adeilad*”) (except in Part 2) means –

- (a) any building or structure, or
- (b) any part of a building or structure,

but does not (except in section 148) include plant or machinery forming part of a building or structure;

“conservation area” (“*ardal gadwraeth*”) means an area designated under section 158;

“conservation area consent” (“*cydsyniad ardal gadwraeth*”) has the meaning given by section 162;

“the Crown” (“*y Goron*”) is to be interpreted in accordance with section 207(7);

“Crown interest” (“*buddiant y Goron*”) has the meaning given by section 207(3);

“Crown land” (“*tir y Goron*”) has the meaning given by section 207(2);

“development” (“*datblygiad*”) has the meaning given by section 55 of the Town and Country Planning Act 1990 (c. 8);

“disposal” (“*gwaredu*”), in relation to land, means disposal by sale, exchange or lease, by creating an easement, right or privilege, or in any other way, but does not include disposal by appropriation, gift or mortgage;

“Duchy interest” (“*buddiant y Ddugiaeth*”) has the meaning given by section 207(4);

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given by section 15(1) of the Electronic Communications Act 2000 (c. 7);

“enactment” (“*deddfiad*”) means any enactment, whenever enacted or made;

“functions” (“*swyddogaethau*”) includes powers and duties;

“land” (“*tir*”) –

- (a) means any corporeal hereditament, including a building or monument, and
- (b) in relation to the acquisition of land, includes any interest in or right over land;

“lease” (“*les*”) includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage;

“listed building” (“*adeilad rhestredig*”) has the meaning given by section 76;

“listed building consent” (“*cydsyniad adeilad rhestredig*”) has the meaning given by section 89;

“listed building partnership agreement” (“*cytundeb partneriaeth adeilad rhestredig*”) has the meaning given by section 113(5);

“monument” (“*heneb*”) is to be interpreted in accordance with section 2;

“owner” (“*perchennog*”), in relation to land (except in sections 15, 25, 26, 91, 113 and 186), means a person who, whether in their own right or as trustee for any other person –

- (a) is entitled to receive the rack rent of the land, or
- (b) would be so entitled if the land were let at a rack rent,

but does not include a mortgagee who is not in possession;

“planning authority” (“*awdurdod cynllunio*”) means a local planning authority, within the meaning given by Part 1 of the Town and Country Planning Act 1990 (c. 8), for an area in Wales;

“planning permission” (“*caniatâd cynllunio*”) has the meaning given by section 336(1) of the Town and Country Planning Act 1990 (c. 8);

“private interest” (“*buddiant preifat*”), in relation to Crown land, has the meaning given by section 207(5);

“scheduled monument” (*“heneb gofrestredig”*) has the meaning given by section 3(7);  
“site” (*“safle”*), in relation to a monument, is to be interpreted in accordance with section 2;

“statutory undertaker” (*“ymgymerwr statudol”*) means a person who –

- (a) is a statutory undertaker within the meaning given by section 262 of the Town and Country Planning Act 1990 (c. 8), or
- (b) is deemed by that section to be a statutory undertaker for the purposes of any provision of that Act,

and references to the “undertaking” of a statutory undertaker are to be interpreted in accordance with that section.

## **211 Consequential and transitional provision etc.**

- (1) Schedule 13 contains minor and consequential amendments and repeals.
- (2) Schedule 14 contains transitional and saving provisions.
- (3) The Welsh Ministers may by regulations –
  - (a) make provision that is incidental or supplementary to, or consequential on, any provision of this Act;
  - (b) make transitional, transitory or saving provision in connection with any provision of this Act.
- (4) Regulations under subsection (3) may amend, repeal or revoke any enactment (including any provision of this Act).

## **212 Coming into force**

- (1) The following provisions come into force on the day after the day this Act receives Royal Assent –
  - (a) Part 1;
  - (b) section 209;
  - (c) section 210;
  - (d) section 211(3) and (4);
  - (e) this section;
  - (f) section 213.
- (2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (3) An order under subsection (2) may make transitional, transitory or saving provision in connection with the coming into force of a provision of this Act.

**213 Short title**

The short title of this Act is the Historic Environment (Wales) Act 2023.

SCHEDULE 1  
(introduced by section 7(4))

END OF INTERIM PROTECTION FOR MONUMENTS

*Application of this Schedule*

- 1 This Schedule applies where interim protection ends in relation to a monument because of a notice under section 7(1)(b) or (2)(b).

*Criminal liability*

- 2 The fact that interim protection has ended does not affect the liability of any person to be prosecuted and punished for an offence under this Act committed while the interim protection had effect.

*Scheduled monument consent*

- 3 Any proceedings on or arising out of an application for scheduled monument consent relating to the monument lapse, in so far as they relate to consent required by virtue of the interim protection; and any such consent ceases to have effect to the same extent.

*Temporary stop notices*

- 4 Any temporary stop notice relating to the monument ceases to have effect, in so far as the notice relates to works affecting anything in respect of which the interim protection had effect.

*Enforcement notices*

- 5 (1) Any enforcement notice relating to the monument ceases to have effect, in so far as the notice relates to works affecting anything in respect of which the interim protection had effect.
- (2) Any proceedings under section 39 or 40(3) relating to an enforcement notice lapse, in so far as the notice relates to works affecting anything in respect of which the interim protection had effect.
- (3) Despite sub-paragraph (1), section 40(1) and (2) continue to have effect in relation to—
- (a) any expenses incurred by a person authorised by the Welsh Ministers as mentioned in that section, and
  - (b) any amounts paid on account of those expenses.

*Injunctions*

- 6 Any proceedings on an application for an injunction under section 42 relating to the monument lapse, in so far as they relate to the restraint of any actual or expected breach in relation to anything in respect of which the interim protection had effect.

## SCHEDULE 2

(introduced by sections 10(5) and 82(6))

## DECISION ON REVIEW BY PERSON APPOINTED BY THE WELSH MINISTERS

*Application of this Schedule and meaning of “appointed person”*

- 1 (1) This Schedule applies to a review carried out by an appointed person—
- (a) under section 9 (reviews of certain amendments to the schedule), or
  - (b) under section 81 (reviews of decisions to list buildings).
- (2) In this Schedule “appointed person” means a person appointed under section 9(3) or 81(3) (as the case may be) to carry out and make a decision on a review.

*Appointment of another person to make a decision on a review*

- 2 (1) At any time before an appointed person has made a decision on a review the Welsh Ministers may—
- (a) revoke the person’s appointment, and
  - (b) appoint another person to make the decision instead.
- (2) Where a new appointment is made, the review, and any inquiry or other hearing in connection with the review, must start afresh.
- (3) Sub-paragraph (2) does not require any person to be given an opportunity to make fresh representations or to modify or withdraw any representations already made.

*Appointment of assessor to assist appointed person*

- 3 An appointed person may appoint an assessor to provide advice on—
- (a) any matters arising at a local inquiry or hearing held by the appointed person in connection with a review or in consequence of such an inquiry or hearing, or
  - (b) any matters arising in written representations made to the appointed person in connection with such a review or in consequence of such representations.

*Directions*

- 4 The Welsh Ministers may direct that anything that would fall to be done by an appointed person in connection with a review, other than making a decision on the review, is to be done instead by the Welsh Ministers.

*Delegation*

- 5 (1) An appointed person may delegate to another person anything that would fall to be done by the appointed person in connection with a review, other than—
- (a) the conduct of a local inquiry or hearing, and

(b) the making of a decision on the review under section 9(3)(b) or 81(3)(b).

- (2) The appointed person may determine the extent and terms of a delegation under subparagraph (1) and may amend or revoke the delegation.

*Public Services Ombudsman (Wales) Act 2019 (anaw 3)*

- 6 Where an appointed person is a member of the staff of the Welsh Government, the person's functions of making a decision on a review and doing anything in connection with it are to be treated for the purposes of the Public Services Ombudsman (Wales) Act 2019 (anaw 3) as functions of the Welsh Government.



SCHEDULE 3  
(introduced by section 12(1))

AUTHORISATION FOR CLASSES OF WORKS

TABLE

Name of class	Authorised works
<b>Class 1: Agricultural, Horticultural and Forestry Works</b>	<p>Agricultural, horticultural and forestry works of the same kind as works carried out lawfully on the same spot within the 6 years before the day the works start; except—</p> <ul style="list-style-type: none"> <li>(a) in the case of land on which ploughing has previously been carried out, works likely to disturb the soil below the depth at which ploughing has previously been carried out lawfully;</li> <li>(b) in the case of other land, works likely to disturb the soil below a depth of 300 millimetres;</li> <li>(c) sub-soiling, drainage works, the planting or uprooting of trees, hedges or shrubs, the stripping of top soil, tipping operations, or the commercial cutting and removal of turf;</li> <li>(d) the demolition, removal, extension, alteration or disturbance of a building, structure or work or of the remains of a building, structure or work;</li> <li>(e) the erection of a building or structure;</li> <li>(f) in the case of works other than domestic gardening works, the laying of paths, hard-standings or foundations for buildings or the erection of fences or other barriers.</li> </ul> <p><i>Interpretation</i></p> <p>For the purposes of this class—</p> <ul style="list-style-type: none"> <li>(a) “domestic gardening works” includes works carried out in the non-commercial cultivation of allotments;</li> <li>(b) “horticultural works” includes domestic gardening works;</li> <li>(c) works are to be treated as having been carried out lawfully if— <ul style="list-style-type: none"> <li>(i) in relation to any time after the coming into force of this Schedule, the works were carried out in accordance with the terms of this class, or would have been so carried out if during the period in question the monument had been a scheduled monument;</li> <li>(ii) in relation to any time before the coming into force of this Schedule, the works were carried out in accordance with the terms of Class 1 of the Schedule to the Ancient Monuments (Class Consents) Order 1994 (S.I. 1994/1381), or would have been so carried out if during the period in question the monument had been a scheduled monument for the purposes of the Ancient Monuments and Archaeological Areas Act 1979 (c. 46).</li> </ul> </li> </ul>

<b>Class 2: Coal mining operations</b>	Works carried out more than 10 metres below ground level by any licensed operator (within the meaning of the Coal Industry Act 1994 (c. 21)).
<b>Class 3: Works by Canal &amp; River Trust</b>	Works of repair or maintenance carried out by Canal & River Trust, in relation to land owned or occupied by it, which are essential to ensure the functioning of a canal; except works involving a material alteration to a scheduled monument.
<b>Class 4: Works for the repair or maintenance of machinery</b>	Works of repair or maintenance to machinery, except works involving a material alteration to a scheduled monument.
<b>Class 5: Works carried out by Historic England</b>	Works carried out by the Historic Buildings and Monuments Commission for England.
<b>Class 6: Works of archaeological evaluation</b>	Works of archaeological evaluation carried out by or on behalf of a person who has applied for scheduled monument consent, where the works are carried out – (a) to supply the Welsh Ministers with information required by them to determine the application, (b) under the supervision of a person approved in writing by the Welsh Ministers, and (c) in accordance with a written specification approved by the Welsh Ministers.
<b>Class 7: Works grant aided by the Welsh Ministers</b>	Works for the preservation, maintenance or management of a scheduled monument where the works are carried out in accordance with the terms of a written agreement under which the Welsh Ministers meet, or contribute towards, the cost of those works.
<b>Class 8: Works undertaken by the Royal Commission on the Ancient and Historical Monuments of Wales</b>	Works consisting of placing survey markers to a depth not exceeding 300 millimetres for the purpose of measured surveying of visible remains, where the works are carried out by the Royal Commission on the Ancient and Historical Monuments of Wales.

*Power to amend Schedule*

- 1 The Welsh Ministers may by regulations amend this Schedule to –
- (a) add a class of works to the table;
  - (b) modify a description of a class of works;
  - (c) remove a class of works.

SCHEDULE 4  
(introduced by section 20(3))

PROCEDURE FOR ORDERS MODIFYING OR REVOKING SCHEDULED MONUMENT  
CONSENT

PART 1

NOTICE OF PROPOSED MODIFICATION OR REVOCATION

*Requirement to serve a notice of proposed modification or revocation*

- 1 (1) Before making an order under section 20 modifying or revoking a scheduled monument consent the Welsh Ministers must serve a notice of the proposed modification or proposed revocation on—
- (a) every owner and occupier of the monument, and
  - (b) any other person the Welsh Ministers consider would be affected by the proposal.
- (2) A notice under this paragraph must—
- (a) include a copy of the order the Welsh Ministers propose to make,
  - (b) set out the reasons for the proposed modification or proposed revocation,
  - (c) state that the person served with the notice has 28 days, beginning with the day after the day of service of the notice, to make an objection about the proposal to the Welsh Ministers, and
  - (d) state the way in which an objection must be made.
- (3) Where a proposed modification would exclude any works from the scope of the scheduled monument consent, the notice must provide that those works must not be carried out on or after a day specified by the notice.
- (4) Where a proposed modification would affect the carrying out of any of the works to which the consent relates in any other way, the notice must provide that the works must not be carried out on or after a day specified by the notice in a way specified in the notice.
- (5) A notice of proposed revocation must provide that the works to which the scheduled monument consent relates must not be carried out on or after a day specified by the notice.

*Effect of notice under paragraph 1 on authorisation to carry out works*

- 2 (1) Where a notice under paragraph 1 provides that works specified in the notice must not be carried out on or after a day specified by the notice, the specified works are not authorised for the purposes of Chapter 3 of Part 2 of this Act from the beginning of that day.

- (2) Where a notice under paragraph 1 provides that works specified in the notice must not be carried out on or after a day specified by the notice in a way specified in the notice, the specified works, if carried out that way, are not authorised for the purposes of Chapter 3 of Part 2 of this Act from the beginning of that day.
- (3) Where a notice under paragraph 1 provides that the works to which the scheduled monument consent relates must not be carried out on or after a day specified by the notice, those works are not authorised under Chapter 3 of Part 2 of this Act from the beginning of that day.
- (4) The preceding provisions of this paragraph cease to apply in relation to any works affected by a notice under paragraph 1 –
  - (a) where the Welsh Ministers make an order under section 20 within the period of 21 months beginning with the day the notice was served (“the 21 month period”), when the order is made (at which point authorisation ceases to the extent provided in the order),
  - (b) where the Welsh Ministers, within the 21 month period, serve notice on every owner and occupier of the monument that they have decided not to make the order, at the beginning of the day specified for the purposes of this paragraph by the Welsh Ministers in the notice, or
  - (c) in any other case, at the end of the 21 month period.

## PART 2

### PROCEEDING TO MAKE AN ORDER AFTER SERVICE OF NOTICE

#### *Making an order under section 20*

- 3 (1) This paragraph applies where a notice under paragraph 1 has been served under Part 1 of this Schedule.
- (2) The Welsh Ministers may not make the order to which the notice relates unless –
  - (a) the period for making objections to the proposal has ended without an objection being made by a person on whom the notice was served,
  - (b) if an objection was made by such a person within that period, all such objections have been withdrawn, or
  - (c) if an objection was made during that period by such a person and the objection has not been withdrawn, the requirements of sub-paragraphs (3) and (4) have been met.
- (3) The requirements of this sub-paragraph are met if the Welsh Ministers –
  - (a) cause a local inquiry to be held, or
  - (b) give the person who made the objection an opportunity to appear before and be heard by a person appointed by them.
- (4) The requirements of this sub-paragraph are met if the Welsh Ministers –

- (a) consider each objection made as described in sub-paragraph (2)(c) and not withdrawn, and
  - (b) if an inquiry or hearing has been held under sub-paragraph (3), consider the report of the person who held it.
- (5) Where a person takes the opportunity to appear before and be heard by a person appointed by the Welsh Ministers under sub-paragraph (3)(b), the Welsh Ministers must give each of the following persons the opportunity to be heard on the same occasion –
- (a) every other person on whom the notice under paragraph 1 was served, and
  - (b) any other person the Welsh Ministers consider appropriate.
- (6) Where the Welsh Ministers make an order under section 20 by virtue of sub-paragraph (2)(a) or (b), the order must be made on the terms set out by the notice.
- (7) Where the Welsh Ministers make an order under section 20 by virtue of sub-paragraph (2)(c), the order may be made either on the terms set out in the notice or with modifications.

*Notification once order made*

- 4 As soon as practicable after making an order under section 20 the Welsh Ministers must send a copy of the order –
- (a) to every person served with a notice under paragraph 1, and
  - (b) where –
    - (i) an inquiry was held under paragraph 3(3)(a), to any other person who gave evidence at the inquiry, or
    - (ii) a hearing was held for the purposes of paragraph 3(3)(b), to any other person who was given the opportunity to appear at the hearing.

PART 3

SUPPLEMENTARY

*Procedure after hearing or inquiry*

- 5 (1) The person appointed to carry out a hearing or inquiry under paragraph 3 must, after the close of the hearing or inquiry, make a report in writing to the Welsh Ministers.
- (2) The report must include the appointed person's conclusions and recommendation as to whether the modification or revocation ought to be made (or the appointed person's reasons for not making a recommendation).

SCHEDULE 5  
(introduced by section 27(4))

TERMINATION BY ORDER OF SCHEDULED MONUMENT PARTNERSHIP  
AGREEMENT

PART 1

NOTICE OF PROPOSED TERMINATION

*Requirement to serve notice of proposed termination*

- 1 (1) Before making an order under section 27 terminating a scheduled monument partnership agreement or a provision of such an agreement the Welsh Ministers must serve notice of a proposal to make the order (a “notice of proposed termination”) on –
  - (a) the other parties to the agreement, and
  - (b) any other person the Welsh Ministers consider to have an interest in the agreement.
- (2) A notice of proposed termination must –
  - (a) include a copy of the order the Welsh Ministers propose to make,
  - (b) set out the reasons for the proposed termination,
  - (c) state that the person served with the notice has 28 days, beginning with the day after the day the notice is served, to make an objection about the proposal to the Welsh Ministers, and
  - (d) state the way in which an objection must be made.
- (3) Where the effect of the order proposed to be made under section 27 would be to revoke a scheduled monument consent granted by the agreement, the notice of proposed termination must provide that the works to which the consent relates must not be carried out on or after a day specified by the notice.
- (4) Where the effect of an order proposed to be made under section 27 would be to exclude any works from the scope of a scheduled monument consent granted by the agreement, the notice of proposed termination must provide that the affected works must not be carried out on or after a day specified by the notice.

*Effect on authorised works of service of notice of proposed termination*

- 2 (1) Where a notice of proposed termination provides that the works to which a scheduled monument consent relates must not be carried out on or after a day specified by the notice, those works are not authorised for the purposes of Chapter 3 of Part 2 of this Act from the beginning of that day.
- (2) Where a notice of proposed termination provides that works specified in the notice must not be carried out on or after a day specified by the notice, the specified works are not authorised for the purposes of Chapter 3 of Part 2 of this Act from the beginning of that day.

- (3) The preceding provisions of this paragraph cease to apply in relation to any works affected by a notice of proposed termination –
- (a) where the Welsh Ministers make an order under section 27 within the period of 21 months beginning with the day the notice of proposed termination was served (“the 21 month period”), when the order is made (at which point authorisation ceases to the extent provided in the order),
  - (b) where the Welsh Ministers, within the 21 month period, serve notice on each person on whom the notice of proposed termination was served that they have decided not to make the order, at the beginning of the day specified for the purposes of this paragraph by the Welsh Ministers in the notice, or
  - (c) in any other case, at the end of the 21 month period.

## PART 2

### PROCEEDING TO MAKE AN ORDER AFTER SERVICE OF NOTICE

#### *Making an order under section 27*

- 3 (1) This paragraph applies where a notice of proposed termination has been served under Part 1 of this Schedule.
- (2) The Welsh Ministers may not make the order to which the notice relates unless –
- (a) the period for making objections to the proposal has ended without an objection being made by a person on whom the notice was served,
  - (b) if an objection was made by such a person within that period, all such objections have been withdrawn, or
  - (c) if an objection was made during that period by such a person and the objection has not been withdrawn, the requirements of sub-paragraphs (3) and (4) have been met.
- (3) The requirements of this sub-paragraph are met if the Welsh Ministers –
- (a) cause a local inquiry to be held, or
  - (b) give the person who made the objection an opportunity to appear before and be heard by a person appointed by them.
- (4) The requirements of this sub-paragraph are met if the Welsh Ministers –
- (a) consider each objection made as described in sub-paragraph (2)(c) and not withdrawn, and
  - (b) if an inquiry or hearing has been held under sub-paragraph (3), consider the report of the person who held it.
- (5) Where a person takes the opportunity to appear before and be heard by a person appointed by the Welsh Ministers under sub-paragraph (3)(b), the Welsh Ministers must give each of the following persons the opportunity to be heard on the same occasion –
- (a) every other person served with the notice of proposed termination, and
  - (b) any other person the Welsh Ministers consider appropriate.

- (6) Where the Welsh Ministers make an order under section 27 by virtue of sub-paragraph (2)(a) or (b), the order must be made on the terms set out by the notice of proposed termination.
- (7) Where the Welsh Ministers make an order under section 27 by virtue of sub-paragraph (2)(c), the order may be made either on the terms set out by the notice of proposed termination or with modifications.

*Notification once order made*

- 4 As soon as practicable after making an order under section 27 the Welsh Ministers must send a copy of the order –
  - (a) to every person on whom a notice of proposed termination was served, and
  - (b) where –
    - (i) an inquiry was held under paragraph 3(3)(a), to any other person who gave evidence at the inquiry, or
    - (ii) a hearing was held under paragraph 3(3)(b), to any other person who was given the opportunity to appear at the hearing.

PART 3

SUPPLEMENTARY

*Procedure after hearing or inquiry*

- 5 (1) The person appointed to carry out a hearing or inquiry under paragraph 3 must, after the close of the hearing or inquiry, make a report in writing to the Welsh Ministers.
- (2) The report must include the appointed person's conclusions and recommendation as to whether an order under section 27 ought to be made (or the appointed person's reasons for not making a recommendation).



## SCHEDULE 6

(introduced by sections 10(5), 17(6), 20(3) and 27(4))

### PROCEEDINGS UNDER PART 2

#### *Evidence at local inquiries*

- 1 (1) A person appointed to hold a local inquiry under Part 2 of this Act may by summons require any person –
- (a) to attend the inquiry, at a time and place stated in the summons, and to give evidence, or
  - (b) to produce any documents in the person’s possession or under the person’s control which relate to any matter in question at the inquiry.
- (2) The person appointed to hold the inquiry may take evidence on oath, and for that purpose may administer oaths.
- (3) A summons under this paragraph does not require a person to attend the inquiry unless the person’s necessary expenses of attending are paid or offered to the person.
- (4) A person may not be required under this paragraph to produce the title (or any instrument relating to the title) of any land which does not belong to a local authority.

#### *Offence relating to failure to comply with summons under paragraph 1*

- 2 (1) It is an offence for a person to –
- (a) refuse or deliberately fail to comply with a requirement of a summons under paragraph 1, or
  - (b) deliberately alter, suppress, conceal or destroy a document the person is required, or is liable to be required, to produce under that paragraph.
- (2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale or imprisonment for a term not exceeding the maximum term for summary offences, or both.
- (3) In sub-paragraph (2) “the maximum term for summary offences” means –
- (a) in relation to an offence committed before section 281(5) of the Criminal Justice Act 2003 (c. 44) comes into force, 6 months;
  - (b) in relation to an offence committed after it comes into force, 51 weeks.

#### *Costs of certain proceedings under this Part*

- 3 (1) This paragraph applies in relation to the following proceedings –
- (a) a review by the Welsh Ministers under section 9 (reviews of decisions to add monument to the schedule etc.);
  - (b) a local inquiry or hearing, or an opportunity to make written representations, under section 17 (determining applications for scheduled monument consent);

- (c) a local inquiry or hearing under Part 2 of Schedule 4 (proposed modification or revocation of scheduled monument consent).
- (2) The Welsh Ministers may direct that the costs incurred by them in relation to the proceedings (including the costs of any person appointed by them to hold the proceedings) must be paid by any party to the proceedings specified in the direction.
- (3) The amount of the costs incurred and directed to be paid as mentioned in sub-paragraph (2) may be recovered by the Welsh Ministers summarily as a civil debt.
- (4) The Welsh Ministers may, in relation to the proceedings, make orders about –
  - (a) the costs of the parties to the proceedings, and
  - (b) the party or parties who must pay the costs.
- (5) Costs payable by virtue of sub-paragraph (4) may be recovered as if they were payable under an order of the High Court, if the High Court so orders on the application of the person to whom the costs are due.
- (6) The Welsh Ministers may not make an order under sub-paragraph (4) requiring a person to pay the costs of another party to the proceedings unless they are satisfied that –
  - (a) the person has behaved unreasonably in relation to the proceedings, and
  - (b) the person's unreasonable behaviour has caused the other party to incur unnecessary or wasted expenditure.
- (7) References in this paragraph to costs incurred by the Welsh Ministers include –
  - (a) the entire administrative cost incurred by them in connection with the proceedings, including in particular a reasonable amount that they determine in respect of general staff costs and overheads of the Welsh Government;
  - (b) costs incurred by them (or by persons appointed by them) in respect of proceedings that do not take place.

*Costs of reviews held under section 9 by appointed person*

- 4 Where a review under section 9 is carried out by a person appointed by the Welsh Ministers under subsection (3) of that section, the appointed person has the same powers in relation to the review as the Welsh Ministers have under paragraph 3.

## SCHEDULE 7

(introduced by sections 79(6) and 85(4))

### END OF INTERIM PROTECTION OR TEMPORARY LISTING FOR BUILDINGS

#### *Introduction*

- 1 This Schedule applies where –
- (a) interim protection ends in relation to a building because the Welsh Ministers serve notice under section 79(5)(b) that they have decided not to list the building, or
  - (b) temporary listing ends in relation to a building –
    - (i) at the end of the 6-month period mentioned in section 85(1), or
    - (ii) because the Welsh Ministers give notification under section 85(3) that they do not intend to consult on a proposal to list the building.

#### *Criminal liability*

- 2 The fact that the building is no longer treated as if it were a listed building does not affect the liability of any person to be prosecuted and punished for an offence under this Act committed while the building was treated as a listed building.

#### *Listed building consent*

- 3 Any proceedings on or arising out of an application for listed building consent relating to the building lapse; and any such consent ceases to have effect.

#### *Temporary stop notices*

- 4 Any temporary stop notice relating to the building ceases to have effect.

#### *Enforcement notices*

- 5
- (1) Any enforcement notice relating to the building ceases to have effect.
  - (2) Any proceedings on an appeal against such a notice lapse.
  - (3) Despite sub-paragraph (1), section 132(1) to (6) continue to have effect in relation to –
    - (a) any expenses incurred by a planning authority or the Welsh Ministers, or by an owner or occupier, as mentioned in that section, and
    - (b) any amounts paid on account of those expenses.

#### *Injunctions*

- 6 Any proceedings on an application for an injunction under section 135 relating to the building lapse.

SCHEDULE 8  
(introduced by section 107(3))

PROCEDURE FOR ORDERS MODIFYING OR REVOKING LISTED BUILDING  
CONSENT

PART 1

ORDERS MADE BY PLANNING AUTHORITIES

*Circumstances in which orders take effect*

- 1 An order under section 107 made by a planning authority takes effect only –
- (a) if it is confirmed by the Welsh Ministers under paragraph 2, or
  - (b) in accordance with paragraph 3.

*Procedure for confirmation of orders by Welsh Ministers*

- 2 (1) Where a planning authority submits an order under section 107 to the Welsh Ministers for confirmation, it must serve notice of the submission of the order on –
- (a) every owner and occupier of the listed building to which the order relates, and
  - (b) any other person it thinks will be affected by the order.
- (2) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by a person appointed by the Welsh Ministers.
- (3) If a person on whom the notice is served makes such a request within that period, before confirming the order the Welsh Ministers must give such an opportunity to that person and the planning authority.
- (4) The period specified under sub-paragraph (2) must be at least 28 days beginning with the day after the day the notice is served.
- (5) The Welsh Ministers may confirm the order with or without modifications.

*Procedure for orders to take effect without confirmation*

- 3 (1) This paragraph applies where –
- (a) a planning authority has made an order under section 107, and
  - (b) the following persons have notified the authority in writing that they do not object to the order –
    - (i) every owner and occupier of the listed building to which the order relates, and
    - (ii) every other person the authority thinks will be affected by the order.

- (2) The planning authority must (instead of submitting the order to the Welsh Ministers for confirmation) –
  - (a) publish notice of the making of the order in the way specified in regulations made by the Welsh Ministers,
  - (b) serve a copy of the notice on the persons mentioned in sub-paragraph (1)(b), and
  - (c) send a copy of the notice to the Welsh Ministers not later than 3 days after the day it is published.
- (3) The notice must specify –
  - (a) the period within which persons affected by the order may give notice to the Welsh Ministers that they want the order to be submitted to the Welsh Ministers for confirmation under the procedure in paragraph 2;
  - (b) the period at the end of which, if no such notice is given and the Welsh Ministers do not direct that the order must be submitted to them for confirmation, the order will take effect without being confirmed by the Welsh Ministers.
- (4) If at the end of the period specified under sub-paragraph (3)(a) –
  - (a) no person affected by the order has given notice to the Welsh Ministers as mentioned in sub-paragraph (3)(a), and
  - (b) the Welsh Ministers have not directed that the order must be submitted to them for confirmation,the order takes effect at the end of the period specified under sub-paragraph (3)(b).
- (5) The period specified under sub-paragraph (3)(a) must be at least 28 days beginning with the day after the day the notice of the making of the order is first published.
- (6) The period specified under sub-paragraph (3)(b) must be at least 14 days after the end of the period specified under sub-paragraph (3)(a).

## PART 2

### ORDERS MADE BY THE WELSH MINISTERS

#### *Procedure to be followed before making order*

- 4 (1) The Welsh Ministers must not make an order under section 107 without consulting the planning authority in whose area the listed building to which the order relates is situated.
- (2) Before making an order under section 107 the Welsh Ministers must also serve notice of the proposed order on –
  - (a) every owner and occupier of the building, and
  - (b) any other person they think will be affected by the order.
- (3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by a person appointed by the Welsh Ministers.

- (4) If a person on whom the notice is served makes such a request within that period, before making the order the Welsh Ministers must give such an opportunity to that person and the planning authority.
- (5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.

SCHEDULE 9  
(introduced by section 112)

ACTION FOLLOWING SERVICE OF PURCHASE NOTICE

*Response to purchase notice by planning authority*

- 1 (1) Where a person has served a purchase notice on a planning authority, the authority must serve an acceptance notice or rejection notice on the person.
- (2) An acceptance notice is a notice stating either –
  - (a) that the planning authority is willing to comply with the purchase notice, or
  - (b) that another local authority or statutory undertaker specified in the acceptance notice has agreed to comply with the purchase notice.
- (3) A rejection notice is a notice stating –
  - (a) that for reasons specified in the notice, the planning authority is not willing to comply with the purchase notice and has not found any other local authority or statutory undertaker willing to comply with it, and
  - (b) that the planning authority has sent copies of the purchase notice and rejection notice to the Welsh Ministers.
- (4) An acceptance notice or rejection notice must be served before the end of 3 months beginning with the day the purchase notice was served.
- (5) Where the planning authority serves an acceptance notice on a person, that authority or (in the case of a notice falling within sub-paragraph (2)(b)) the other local authority or statutory undertaker specified in the notice is to be treated –
  - (a) as being authorised under section 137 to acquire the person’s interest compulsorily, and
  - (b) as having served a notice to treat in respect of that interest on the day the acceptance notice is served.
- (6) Before serving a rejection notice on a person, the planning authority must send the Welsh Ministers –
  - (a) a copy of the rejection notice, and
  - (b) a copy of the purchase notice.
- (7) A notice to treat which is treated as having been served by virtue of sub-paragraph (5)(b) may not be withdrawn under section 31 of the Land Compensation Act 1961 (c. 33).

*Action to be taken by Welsh Ministers on rejection of purchase notice by planning authority*

- 2 (1) This paragraph applies where a copy of a purchase notice is sent to the Welsh Ministers under paragraph 1(6).
- (2) The Welsh Ministers must confirm the purchase notice if they are satisfied –
  - (a) that the sets of conditions in section 109 are met in relation to the land to which the notice relates, and

- (b) that the land to which the notice relates includes all of the land adjoining or adjacent to the listed building that they consider is required –
  - (i) for preserving the building or its amenities,
  - (ii) for providing or facilitating access to it, or
  - (iii) for its proper control or management,

but this is subject to the following provisions.

- (3) If the Welsh Ministers are satisfied that the sets of conditions in section 109 are met only in relation to part of the land, they must confirm the notice only in relation to that part.
- (4) Instead of confirming the purchase notice, the Welsh Ministers may –
  - (a) in the case of a notice served in consequence of a refusal of listed building consent for any works, grant listed building consent for the works;
  - (b) in the case of a notice served in consequence of a grant of listed building consent for any works subject to conditions, vary or remove the conditions so far as they consider necessary to enable the land to which the notice relates to be made usable by carrying out the works;
  - (c) in the case of a notice served in consequence of an order under section 107 revoking listed building consent, revoke the order;
  - (d) in the case of a notice served in consequence of an order under that section modifying listed building consent for any works by imposing conditions, vary or remove the conditions so far as they consider necessary to enable the land to which the notice relates to be made usable by carrying out the works.
- (5) Sub-paragraph (6) applies if the Welsh Ministers consider that the land to which the notice relates, or any part of it, could be made usable within a reasonable time by carrying out –
  - (a) any other works for which listed building consent ought to be granted, or
  - (b) any development for which planning permission ought to be granted.
- (6) Instead of confirming the purchase notice in relation to the land or that part of it, the Welsh Ministers may direct that, if an application is made for listed building consent for those works, or for planning permission for that development, it must be granted.
- (7) In confirming a purchase notice the Welsh Ministers may, if they consider it appropriate having regard to the probable ultimate use of the land to which the notice relates, modify the notice in relation to all or any part of the land by substituting another local authority or statutory undertaker for the planning authority on which the notice was served.
- (8) If the Welsh Ministers are not satisfied as mentioned in sub-paragraph (2) in relation to a purchase notice, they must refuse to confirm the notice.
- (9) In this paragraph references to the land to which a purchase notice relates are to the listed building and associated land (if any) in respect of which the notice is served.



*Procedure before Welsh Ministers take action in relation to purchase notice*

- 3 (1) Before taking any action in relation to a purchase notice under paragraph 2, the Welsh Ministers must serve notice of their proposed action –
- (a) on the person who served the purchase notice,
  - (b) on the planning authority on which the purchase notice was served, and
  - (c) if they propose to substitute any other local authority or statutory undertaker for the planning authority, on the other local authority or statutory undertaker.
- (2) A notice under sub-paragraph (1) must specify the period within which any of the persons on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by a person appointed by the Welsh Ministers.
- (3) If a person on whom the notice is served makes a request within that period, the Welsh Ministers must give that person such an opportunity before they take any action in relation to the purchase notice under paragraph 2.
- (4) The period specified under sub-paragraph (2) must be at least 28 days beginning with the day after the day the notice under sub-paragraph (1) is served.
- (5) If, after any persons have appeared before and been heard by an appointed person, the Welsh Ministers consider it appropriate to take action under paragraph 2 otherwise than in accordance with the notice served under sub-paragraph (1), they may do so.

*Effect of Welsh Ministers' action in relation to purchase notice*

- 4 (1) Where the Welsh Ministers confirm a purchase notice, the authority mentioned in sub-paragraph (2) is to be treated –
- (a) as being authorised under section 137 to acquire compulsorily the interest of the person who served the notice, and
  - (b) as having served a notice to treat in respect of that interest on the date that the Welsh Ministers direct.
- (2) The authority referred to in sub-paragraph (1) is –
- (a) the planning authority on which the purchase notice was served, or
  - (b) if the Welsh Ministers modified the purchase notice under paragraph 2(7) by substituting another local authority or statutory undertaker for the planning authority, the other local authority or statutory undertaker.
- (3) If a purchase notice is sent to the Welsh Ministers under paragraph 1(6) and they do not take any action in relation to it under paragraph 2 by the end of the relevant period –
- (a) the purchase notice is to be treated as having been confirmed by them at the end of the relevant period, and
  - (b) the planning authority on which the purchase notice was served is to be treated –

- (i) as being authorised under section 137 to acquire compulsorily the interest of the person who served the notice, and
  - (ii) as having served a notice to treat in respect of that interest at the end of the relevant period.
- (4) Where a purchase notice is confirmed only in relation to part of the land to which it relates, references in this paragraph to the owner's interest are to the owner's interest in that part.
- (5) In sub-paragraph (3) the "relevant period" means whichever of the following ends earlier –
- (a) 9 months beginning with the day the purchase notice was served on the planning authority;
  - (b) 6 months beginning with the day a copy of the notice was sent to the Welsh Ministers under paragraph 1(6).
- (6) But the relevant period does not include any time when the Welsh Ministers have before them both –
- (a) a copy of the purchase notice sent to them under paragraph 1(6), and
  - (b) a notice of appeal under section 100 (appeal against refusal etc. of listed building consent) or 127 (appeal against enforcement notice) relating to any of the land to which the purchase notice relates.
- (7) A notice to treat which is treated as having been served by virtue of sub-paragraph (1)(b) or (3)(b)(ii) may not be withdrawn under section 31 of the Land Compensation Act 1961 (c. 33).
- (8) In this paragraph references to the land to which a purchase notice relates are to the listed building and associated land (if any) in respect of which the notice is served.

*Legal challenge to Welsh Ministers' action in relation to purchase notice*

- 5 (1) If a decision of the Welsh Ministers to take any action in relation to a purchase notice under paragraph 2 is quashed in proceedings under section 183, the purchase notice is to be treated as cancelled, but the person who served it may serve a further purchase notice.
- (2) For the purpose of determining whether the further purchase notice has been served within the time specified in section 111(1), the decision to which the notice relates is to be treated as having been made, or the order to which it relates is to be treated as having taken effect, on the day the Welsh Ministers' decision was quashed.

*Deduction of compensation payable under section 108 on acquisition*

- 6 Where compensation is payable under section 108 (compensation where consent is modified or revoked) for expenditure incurred in carrying out works to a listed building, any compensation that becomes payable in respect of the acquisition of an interest in the building and any associated land in pursuance of a purchase notice must be reduced by the amount of the compensation relating to the works.

*Interpretation of Schedule*

7 (1) In this Schedule—

“associated land” (*“tir cysylltiedig”*) and “usable” (*“defnyddiadwy”*) have the meanings given by section 109(6);

“statutory undertaker” (*“ymgymerwr statudol”*) includes an electronic communications code operator and a former public telecommunications operator.

(2) In the definition of “statutory undertaker” in sub-paragraph (1)—

“electronic communications code operator” (*“gweithredwr cod cyfathrebu electronig”*) has the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003 (c. 21);

“former public telecommunications operator” (*“cyn-weithredwr telathrebu cyhoeddus”*) has the meaning given to “former PTO” by paragraph 1(1) of Schedule 17 to the Communications Act 2003.

SCHEDULE 10  
(introduced by section 115(5))

PROCEDURE FOR ORDERS TERMINATING LISTED BUILDING PARTNERSHIP  
AGREEMENTS

PART 1

ORDERS MADE BY PLANNING AUTHORITIES

*Requirement for confirmation by Welsh Ministers*

- 1 (1) An order under section 115 made by a planning authority does not take effect unless it is confirmed by the Welsh Ministers.
- (2) Where a planning authority submits an order to the Welsh Ministers for confirmation, it must serve notice of the submission of the order on—
- (a) the other parties to the listed building partnership agreement,
  - (b) any other person occupying the listed building, or the part of a listed building, to which the agreement relates under a lease granted or extended for a fixed term that has at least 2 years left to run, and
  - (c) any other person the authority thinks will be affected by the order.
- (3) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by a person appointed by the Welsh Ministers.
- (4) If a person on whom the notice is served makes such a request within that period, before confirming the order the Welsh Ministers must give such an opportunity to that person and each planning authority that is a party to the listed building partnership agreement.
- (5) The period specified under sub-paragraph (3) must be at least 28 days beginning with the day after the day the notice is served.
- (6) The Welsh Ministers may confirm the order with or without modifications.

PART 2

ORDERS MADE BY THE WELSH MINISTERS

*Procedure to be followed before making order*

- 2 (1) Before making an order under section 115, the Welsh Ministers must serve notice of the proposed order on—
- (a) the parties to the listed building partnership agreement (or if the Welsh Ministers are a party to the agreement, the other parties to it),
  - (b) any other person occupying the listed building, or the part of a listed building, to which the agreement relates under a lease granted or extended for a fixed term that has at least 2 years left to run, and

- (c) any other person the Welsh Ministers think will be affected by the order.
- (2) The notice must specify the period within which a person on whom it is served may make a request in writing to the Welsh Ministers for an opportunity to appear before and be heard by a person appointed by the Welsh Ministers.
- (3) If a person on whom the notice is served makes such a request within that period, before making the order the Welsh Ministers must give such an opportunity to that person and any planning authority that is a party to the listed building partnership agreement.
- (4) The period specified under sub-paragraph (2) must be at least 28 days beginning with the day after the day the notice is served.

SCHEDULE 11  
(introduced by section 161(5))

EFFECT OF SECTION 161 CEASING TO APPLY TO BUILDING

*Introduction*

1 This Schedule applies where a building ceases to be a building to which section 161 applies.

*Criminal liability*

2 The fact that the building ceases to be a building to which section 161 applies does not affect the liability of any person to be prosecuted and punished for an offence under this Act committed while section 161 applied to it.

*Conservation area consent*

3 Any proceedings on or arising out of an application for conservation area consent relating to the building lapse; and any such consent ceases to have effect.

*Temporary stop notices*

4 Any temporary stop notice relating to the building ceases to have effect.

*Enforcement notices*

- 5
- (1) Any enforcement notice relating to the building ceases to have effect.
  - (2) Any proceedings on an appeal against such a notice lapse.
  - (3) Despite sub-paragraph (1), section 132(1) to (6) (as applied by section 163) continue to have effect in relation to—
    - (a) any expenses incurred by a planning authority or the Welsh Ministers, or by an owner or occupier, as mentioned in that section, and
    - (b) any amounts paid on account of those expenses.

*Injunctions*

6 Any proceedings on an application for an injunction under section 135 (as applied by section 163) relating to the building lapse.

## SCHEDULE 12

(introduced by section 173(6))

## DETERMINATION OF APPEAL BY APPOINTED PERSON OR THE WELSH MINISTERS

*Introduction*

1 In this Schedule –

“appointed person” (“*person a benodir*”) means a person appointed by the Welsh Ministers under section 173 to determine an appeal under section 100 or 127;

“the planning authority” (“*yr awdurdod cynllunio*”) means the planning authority in whose area the building to which the appeal relates is situated.

*Powers and duties of appointed person*

2 (1) An appointed person has the same powers and duties –

(a) in relation to an appeal under section 100 as the Welsh Ministers have under section 104;

(b) in relation to an appeal under section 127 as the Welsh Ministers have under section 128.

(2) Sub-paragraph (3) applies where any enactment (other than this Schedule or section 174) –

(a) refers (or is to be read as referring) to the Welsh Ministers in a context relating to or capable of relating to an appeal to which section 173 applies, or

(b) refers (or is to be read as referring) to anything done or authorised or required to be done by, to or before the Welsh Ministers in connection with any such appeal.

(3) So far as the context permits, the enactment is to be read, in relation to an appeal determined or to be determined by an appointed person, as if the reference to the Welsh Ministers were or included a reference to an appointed person.

*Local inquiry, hearing or written representations*

3 (1) An appointed person may hold a local inquiry or a hearing in connection with an appeal where a determination under section 174 provides for the appeal to be considered in that way.

(2) The Welsh Ministers or an appointed person may appoint an assessor to advise the appointed person on any matters that arise –

(a) at a local inquiry or hearing held by the appointed person in connection with an appeal or in consequence of such an inquiry or hearing, or

(b) in written representations made to the appointed person in connection with an appeal or in consequence of such representations.

*Replacement of appointed person*

- 4 (1) At any time before an appointed person has determined an appeal, the Welsh Ministers may –
- (a) revoke the person’s appointment, and
  - (b) appoint another person under section 173 to determine the appeal.
- (2) Where a new appointment is made, the consideration of the appeal, and any inquiry or other hearing in connection with the appeal, must start afresh.
- (3) Sub-paragraph (2) does not require any person to be given an opportunity to –
- (a) make fresh representations, or
  - (b) modify or withdraw any representations the person has already made.

*Direction under section 173(3)(b) that appeal is to be determined by Welsh Ministers*

- 5 (1) This paragraph applies where the Welsh Ministers give a direction under section 173(3)(b) that an appeal which would otherwise be determined by an appointed person is instead to be determined by them.
- (2) The direction must state the reasons for which it is given and must be served on –
- (a) the person, if any, appointed to determine the appeal,
  - (b) the appellant,
  - (c) the planning authority, and
  - (d) in the case of an appeal under section 100, any person who made representations relating to the subject matter of the appeal which regulations under section 91(4) required the planning authority to take into account.
- (3) The Welsh Ministers must give the persons mentioned in sub-paragraph (2)(b) to (d) an opportunity to make further representations if the reasons for the direction raise matters about which any of those persons have not made representations.
- (4) Except as provided by sub-paragraph (3), the Welsh Ministers need not give any person an opportunity to –
- (a) appear before and be heard by a person appointed by them,
  - (b) make fresh representations, or
  - (c) modify or withdraw any representations the person has already made.
- (5) In determining the appeal the Welsh Ministers may take into account any report made to them by a person previously appointed to determine it.
- (6) Subject to this paragraph, the provisions of this Act that are relevant to the appeal apply to it as if this Schedule had never applied.

*Revocation of direction under section 173(3)(b)*

- 6 (1) The Welsh Ministers may by a further direction revoke a direction under section 173(3)(b) at any time before the determination of the appeal.



- (2) The further direction must state the reasons for which it is given and must be served on the persons on whom paragraph 5(2) required the direction under section 173(3)(b) to be served.
- (3) Where a further direction is given under this paragraph, section 173 and this Schedule apply as if no direction had been given under paragraph 5 (and accordingly the Welsh Ministers must appoint a person under that section to determine the appeal).
- (4) But anything done by or on behalf of the Welsh Ministers in connection with the appeal which might have been done by the appointed person (including any arrangements made for the holding of a hearing or local inquiry) is, unless the appointed person directs otherwise, to be treated as having been done by the appointed person.

*Supplementary provisions*

- 7 (1) It is not a ground of application to the High Court under section 183, or of appeal to the High Court under section 184, that an appeal ought to have been determined by the Welsh Ministers instead of an appointed person, unless the appellant or the planning authority challenges the appointed person's power to determine the appeal before the decision on the appeal is given.
- (2) Where an appointed person is a member of the staff of the Welsh Government, the person's functions of determining an appeal and doing anything in connection with it are to be treated for the purposes of the Public Services Ombudsman (Wales) Act 2019 (anaw 3) as functions of the Welsh Government.

SCHEDULE 13  
*(introduced by section 211(1))*

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

*Settled Land Act 1925 (c. 18)*

- 1 In Part 2 of Schedule 3 to the Settled Land Act 1925, after paragraph (vi) insert –
- “(vii) Works specified by the Welsh Ministers as being required for properly maintaining a listed building (within the meaning given by section 76 of the Historic Environment (Wales) Act 2023) on the settled land.”

*Historic Buildings and Ancient Monuments Act 1953 (c. 49)*

- 2 The Historic Buildings and Ancient Monuments Act 1953 is amended as follows.
- 3 Omit section 4.
- 4 In section 4A –
- (a) in the heading, for “section 4” substitute “section 3A”;
- (b) in subsection (1) –
- (i) omit “or 4”;
- (ii) omit “or (as the case may be) by the Secretary of State”;
- (c) in subsections (3), (4) and (8), omit “or (as the case may be) by the Secretary of State”.
- 5 (1) In section 5, after subsection (5) insert –
- “(6) In this section references to a building do not include a building situated wholly or mainly in Wales.”
- (2) This paragraph does not apply in relation to property that was acquired or accepted before it comes into force.
- 6 Omit section 6.
- 7 In section 8, after subsection (7) insert –
- “(8) In this section references to a building do not include a building situated wholly or mainly in Wales.”

*Land Powers (Defence) Act 1958 (c. 30)*

- 8 In section 6(4)(b) of the Land Powers (Defence) Act 1958, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or section 3 of the Historic Environment (Wales) Act 2023”.

*Public Health Act 1961 (c. 64)*

- 9 In the table in Schedule 4 to the Public Health Act 1961, after the entry relating to section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 insert –

<p>“A building which is included in the schedule of monuments maintained under section 3 of the Historic Environment (Wales) Act 2023 or the list of buildings maintained under section 76 of that Act, except –</p> <p>(a) a building owned by railway, canal, dock, harbour or inland navigation undertakers,</p> <p>(b) a building owned by a holder of a licence under section 6 of the Electricity Act 1989 (c. 29),</p> <p>(c) a building owned by a gas transporter (within the meaning given by section 7(1) of the Gas Act 1986 (c. 44)), or</p> <p>(d) a building forming part of an aerodrome.</p>	The Welsh Ministers.”
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*Compulsory Purchase Act 1965 (c. 56)*

- 10 In section 1(4) of the Compulsory Purchase Act 1965 –
- (a) for “or section 52 of the Planning (Listed Buildings and Conservation Areas) Act 1990” substitute “, section 52 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or section 136 of the Historic Environment (Wales) Act 2023,”;
- (b) after “section 52(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or section 136(4) of the Historic Environment (Wales) Act 2023”.

*Mines (Working Facilities and Support) Act 1966 (c. 4)*

- 11 In section 7 of the Mines (Working Facilities and Support) Act 1966, after subsection (8) insert –
- “(9) For the purposes of this section, where any building or work is a monument of special historic interest within the meaning of Part 2 of the Historic Environment (Wales) Act 2023 and is, in pursuance of that Part, under the guardianship of the Welsh Ministers or a local authority, the Welsh Ministers or the local authority, as the case may be, shall be deemed to be persons entitled to make an application under this section.”

*Civic Amenities Act 1967 (c. 69)*

- 12 Omit section 4 of the Civic Amenities Act 1967.

*Redundant Churches and other Religious Buildings Act 1969 (c. 22)*

- 13 The Redundant Churches and other Religious Buildings Act 1969 is amended as follows.
- 14 In section 4 –
- (a) in subsection (2)(b), after sub-paragraph (i) insert –
- “(ia) the Welsh Ministers,”;
- (b) in subsection (9), after “in relation to” insert “the Secretary of State and”;

(c) after subsection (9) insert –

“(9A) In relation to the Welsh Ministers –

- (a) this section only applies to any premises falling within subsection (1) if they are situated in Wales, and
- (b) references in this section to land are references only to land situated in Wales.”;

(d) in subsection (10) –

- (i) in paragraph (a), after “the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or the Historic Environment (Wales) Act 2023”;
- (ii) in paragraph (b), after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or the Historic Environment (Wales) Act 2023”.

15 In section 5(1), after “Secretary of State,”, in both places, insert “the Welsh Ministers,”.

*Local Government Act 1972 (c. 70)*

16 In section 131(2) of the Local Government Act 1972, after paragraph (m) insert –

“and

- (n) Part 2 of the Historic Environment (Wales) Act 2023.”

*Land Compensation Act 1973 (c. 26)*

17 In section 33D(4)(d) of the Land Compensation Act 1973, after “section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or section 138 of the Historic Environment (Wales) Act 2023”.

*Estate Agents Act 1979 (c. 38)*

18 In section 1(2)(e) of the Estate Agents Act 1979, after “the Planning (Listed Buildings and Conservation Areas) Act 1990,” insert “Parts 3 to 5 of the Historic Environment (Wales) Act 2023,”.

*Ancient Monuments and Archaeological Areas Act 1979 (c. 46)*

19 The Ancient Monuments and Archaeological Areas Act 1979 is amended as follows.

20 In section 1 –

(a) in subsection (3), for “subsection” substitute “subsections (3A) and”;

(b) after subsection (3) insert –

“(3A) The power of the Secretary of State under subsection (3) above to include any monument in the Schedule does not apply to a monument situated in Wales (and in this subsection “Wales” has the meaning given by section 158(1) of the Government of Wales Act 2006).”

(c) omit subsection (5A);

(d) for subsection (6A) substitute—

“(6A) As soon as may be after—

- (a) including any monument in England in the Schedule under subsection (3) above;
- (b) amending the entry in the Schedule relating to any such monument; or
- (c) excluding the entry in the Schedule relating to any such monument;

the Secretary of State shall inform the Commission of the action taken and, in a case falling within paragraph (a) or (b), shall also send to the Commission a copy of the entry or (as the case may be) of the amended entry in the Schedule relating to that monument.”;

(e) omit subsections (6B) and (6C);

(f) in subsection (9) omit “and Wales”.

21 Omit sections 1AA to 1AE.

22 In section 2—

(a) omit subsections (3A) and (3B);

(b) in subsection (5)—

(i) in paragraph (a), omit “(in a case where the monument in question is situated in England), or”;

(ii) omit paragraph (b);

(c) omit subsections (5A) and (5B);

(d) omit subsection (6A);

(e) in subsection (8), omit “which have been executed in relation to a scheduled monument situated in England or land in, on or under which there is such a scheduled monument”;

(f) omit subsection (8A).

23 In section 4(3), omit “Where a direction would (if given) affect a monument situated in England,”.

24 In section 6, omit subsection (5).

25 In section 7(1), omit “the Secretary of State or (where the monument in question is situated in England)”.

26 In section 8—

(a) in subsection (2A), omit paragraph (c);

(b) in subsection (6), omit “and Wales”.

27 In section 9(1), omit “the Secretary of State or (where the monument in question is situated in England)”.

28 Omit sections 9ZA and 9ZB and the italic heading before section 9ZA.

29 Omit sections 9ZC to 9ZH and the italic heading before section 9ZC.

- 30 Omit sections 9ZI to 9ZL and the italic heading before section 9ZI.
- 31 Omit section 9ZM and the italic heading before it.
- 32 In section 26, omit subsection (4).
- 33 In section 27(2), for “section 1AD, 7, 9 or 9ZL” substitute “section 7 or 9”.
- 34 In section 28 –
- (a) in subsection (1), omit “situated in England”;
  - (b) omit subsection (1A).
- 35 In section 33 –
- (a) after subsection (1) insert –  
“(1A) An order under subsection (1) may not designate an area in Wales.”;
  - (b) in subsection (5), omit “and Wales”.
- 36 In section 35(5), omit paragraph (aa).
- 37 In section 38 –
- (a) in subsection (3)(b), omit “and Wales”;
  - (b) in subsection (9)(b), omit “and Wales”.
- 38 Omit section 41A and the italic heading before it.
- 39 In section 42 –
- (a) in subsection (1), omit “or of the Secretary of State (in any other case)”;
  - (b) in subsection (3), omit “or of the Secretary of State (in any other case)”;
  - (c) in subsection (4), omit “the Secretary of State or”;
  - (d) in subsection (5)(a), omit “the Secretary of State or”;
  - (e) in subsection (7), omit “relating to a protected place situated in England”;
  - (f) omit subsection (8).
- 40 In section 44(2), in the second sentence, omit the words from “, or in relation to” to the end.
- 41 In section 45 –
- (a) omit subsection (1);
  - (b) in subsection (3), omit “The Secretary of State or”.
- 42 In section 46(3), omit “9ZF, 9ZJ,”.
- 43 In section 50, omit subsection (3A).
- 44 In section 51(3), omit “1AD, 9ZL,”.
- 45 In section 53 –
- (a) in subsection (2), for “, or of Wales; and, subject to subsection (2B),” substitute “and”;
  - (b) omit subsections (2A) and (2B).
- 46 In section 55, omit subsection (3A).
- 47 In section 56 –

- (a) in subsection (1), omit paragraph (ca) and the “or” after it;
  - (b) omit subsection (1A);
  - (c) omit subsection (3).
- 48 In section 60 –
- (a) omit subsection (1A);
  - (b) omit subsections (3), (4) and (5).
- 49 In section 61 –
- (a) in subsection (1) –
    - (i) omit the definitions of “address”, “electronic communication” and “interim protection”;
    - (ii) in the definition of “local authority”, omit paragraph (aa);
    - (iii) in the definition of “owner”, omit “sections 9ZA and 9ZB and”;
    - (iv) in the definition of “scheduled monument consent”, omit “and (3B)”;
  - (b) omit subsection (2B);
  - (c) in subsection (6), omit “(other than in section 9ZA)”;
  - (d) in subsection (7), omit paragraph (d) and the “and” before it;
  - (e) omit subsection (7A);
  - (f) in subsection (12), in paragraph (b), at the end insert “, except any monument situated wholly or mainly in Wales”.
- 50 Omit Schedules A1 and A2.
- 51 In Schedule 1 –
- (a) in paragraph 1, omit sub-paragraph (3);
  - (b) in paragraph 2(4), omit “or of regulations made by the Welsh Ministers under it”;
  - (c) omit paragraph 2B;
  - (d) in paragraph 3, omit sub-paragraph (5);
  - (e) omit paragraph 3A;
  - (f) in paragraph 4(1), omit “and Wales”;
  - (g) in paragraph 5(1A), omit “Where the monument in question is situated in England,”.

*Local Government, Planning and Land Act 1980 (c. 65)*

- 52 In section 148(3) of the Local Government, Planning and Land Act 1980, after “(which relates to the compilation or approval by the Secretary of State of lists of buildings of special architectural or historic interest)” insert “, under section 76 of the Historic Environment (Wales) Act 2023 (which makes similar provision for Wales),”.

*Highways Act 1980 (c. 66)*

53 The Highways Act 1980 is amended as follows.

54 In section 79(15) –

(a) in paragraph (a), after “local highway authority” insert “in England”;

(b) after that paragraph insert –

“(aa) authorises the service by a local highway authority in Wales of a notice under this section with respect to any wall forming part of a monument of special historic interest (within the meaning of Part 2 of the Historic Environment (Wales) Act 2023) or other object of archaeological interest, except with the consent of the Welsh Ministers; or”

55 In section 105ZA(1), in paragraph (g) of the definition of “sensitive area”, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or the Historic Environment (Wales) Act 2023”.

*New Towns Act 1981 (c. 64)*

56 In section 8 of the New Towns Act 1981, at the end insert “or under section 76 of the Historic Environment (Wales) Act 2023 (which makes similar provision for Wales)”.

*Acquisition of Land Act 1981 (c. 67)*

57 In section 31(1)(a) of the Acquisition of Land Act 1981, after “Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Part 3 of the Historic Environment (Wales) Act 2023”.

*National Heritage Act 1983 (c. 47)*

58 In Schedule 4 to the National Heritage Act 1983 –

(a) omit paragraph 4;

(b) omit paragraph 8;

(c) omit paragraph 31.

*Inheritance Tax Act 1984 (c. 51)*

59 In section 230(3)(c) of the Inheritance Tax Act 1984, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “, or of which the Welsh Ministers are guardians under Part 2 of the Historic Environment (Wales) Act 2023”.

*Building Act 1984 (c. 55)*

60 The Building Act 1984 is amended as follows.

61 In section 1A(2) –

(a) in paragraph (a), after “(see section 1(5) of that Act)” insert “or the Historic Environment (Wales) Act 2023 (see section 76 of that Act)”;



(b) in paragraph (b), for “that Act” substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 or under section 158 of the Historic Environment (Wales) Act 2023”.

62 In section 20(1), after “the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “, Part 3 of the Historic Environment (Wales) Act 2023”.

63 In section 77(3), after “subject to” insert “section 79A and to”.

64 In section 79(5), after “subject to” insert “section 79A and to”.

65 After section 79 insert—

**“79A Wales: exercise of powers under sections 77 and 79 in relation to listed buildings, buildings in conservation areas etc.**

(1) Before taking any steps mentioned in subsection (3) in relation to a listed building, a local authority in Wales must—

(a) if it is the planning authority for the area in which the building is situated, consider whether it should instead exercise its powers under sections 137 and 138 of the Historic Environment (Wales) Act 2023 (compulsory acquisition and repairs notices), and

(b) in any case, consider whether it should instead exercise its powers under section 144 of that Act (urgent preservation works).

(2) Before taking any steps mentioned in subsection (3) in relation to—

(a) a building in relation to which interim protection or temporary listing has effect under Chapter 1 of Part 3 of the Historic Environment (Wales) Act 2023, or

(b) a building that is subject to a direction under section 164 of that Act (urgent works to preserve buildings in conservation areas),

a local authority in Wales must consider whether it should instead exercise its powers under section 144 of that Act.

(3) The steps referred to in subsections (1) and (2) are steps with a view to—

(a) obtaining an order under section 77(1)(a), or

(b) serving a notice under section 79(1).

(4) In subsection (1), “listed building” and “planning authority” have the same meanings as in the Historic Environment (Wales) Act 2023.”

*Housing Act 1985 (c. 68)*

66 The Housing Act 1985 is amended as follows.

67 In section 303, after “section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or section 76 of the Historic Environment (Wales) Act 2023”.

68 In section 305—

- (a) in subsection (1), after “Where a building” insert “in England”;
- (b) after subsection (1) insert –
  - “(1A) Where a building in Wales to which a compulsory purchase order under section 290 applies becomes a listed building at any time after the making of the order, the authority making the order may, within the period of three months beginning with the date on which the building becomes a listed building, apply to the Welsh Ministers (and only to them) for their consent under section 89 of the Historic Environment (Wales) Act 2023 to the demolition of the building.”;
- (c) in subsection (2), after “Secretary of State gives” insert “, or (as the case may be) the Welsh Ministers give,”.

69 In section 306 –

- (a) in subsection (1), after “applies to a building” insert “in England”;
- (b) after subsection (1) insert –
  - “(1A) Where section 291 applies to a building in Wales purchased by the local housing authority by agreement and the building becomes a listed building, the authority may, within the period of three months beginning with the date on which the building becomes a listed building, apply to the Welsh Ministers (and only to them) for their consent under section 89 of the Historic Environment (Wales) Act 2023 to the demolition of the building.”

*Protection of Military Remains Act 1986 (c. 35)*

70 In section 9(1) of the Protection of Military Remains Act 1986, in the definition of “Crown land”, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “except that in relation to land in Wales, it has the meaning given in section 207 of the Historic Environment (Wales) Act 2023”.

*Town and Country Planning Act 1990 (c. 8)*

71 The Town and Country Planning Act 1990 is amended as follows.

72 In section 70(3), as it has effect before section 5(8) of the Housing and Planning Act 2016 (c. 22) comes into force, after “Planning (Listed Buildings and Conservation Areas) Act 1990” insert “, to section 160 of the Historic Environment (Wales) Act 2023”.

73 In section 108(3F), at the end insert “or the Historic Environment (Wales) Act 2023”.

74 In section 137 –

- (a) in subsection (6) –
  - (i) in the words before paragraph (a), after “section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or section 138 of the Historic Environment (Wales) Act 2023”;

- (ii) in paragraph (b), for “that Act” substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 or section 137 of the Historic Environment (Wales) Act 2023”;
- (b) in subsection (7)(b)(i) –
  - (i) after “Secretary of State” insert “or the Welsh Ministers”;
  - (ii) after “he decides” insert “or they decide”.
- 75 In section 143(4), after “Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or section 100 or 127 of the Historic Environment (Wales) Act 2023”.
- 76 In section 157(1)(b) –
  - (a) after “section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or section 137 of the Historic Environment (Wales) Act 2023”;
  - (b) after “section 50 of that Act of 1990” insert “or section 140 of that Act of 2023”.
- 77 In section 232(1), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 78 In section 235(6), in the definition of “alternative enactment”, after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 79 In section 240(3), in the definition of “relevant acquisition or appropriation”, after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 80 In section 241(1), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 81 In section 243(3)(b), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 82 In section 246(1)(a), after “section 52 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or section 136 of the Historic Environment (Wales) Act 2023”.
- 83 In section 271(1), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 84 In section 272(1), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 85 In section 275 –
  - (a) in subsection (1)(a), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”;
  - (b) in subsection (2)(a), for “that Chapter” substitute “either of those Chapters”;

- (c) in subsection (3), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 86 In section 277(2)(a), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 87 In section 303, after subsection (1) insert –
- “(1ZZA) References in subsection (1) to functions of a local planning authority do not, in the case of a local planning authority in Wales, include functions under the Historic Environment (Wales) Act 2023 (as to which, see section 167 of that Act).”
- 88 In section 303ZA(5)(b), which is inserted by section 200 of the Planning Act 2008 (c. 29), after “the Welsh Ministers” insert “in relation to appeals under any provision made by or under this Act as it applies”.
- 89 In section 306(1)(a), after “Chapter V of Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or Chapter 5 of Part 3 of the Historic Environment (Wales) Act 2023”.
- 90 Before section 315 (but after the italic heading before that section) insert –

**“314A Wales: duties relating to listed buildings and features of architectural or historic interest**

- (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the Welsh Ministers or a local planning authority in Wales must have special regard to the desirability of preserving –
- (a) the listed building,
  - (b) the setting of the building, or
  - (c) any features of special architectural or historic interest the building possesses.
- (2) In exercising the powers conferred by sections 232, 233 and 235(1) (appropriation, disposal and development of land held for planning purposes), a relevant local authority must have regard to the desirability of preserving features of special architectural or historic interest, and in particular listed buildings.
- (3) In subsection (2), “relevant local authority” means –
- (a) a county council or county borough council in Wales;
  - (b) a National Park authority in Wales;
  - (c) a joint planning board constituted under section 2(1B).
- (4) In this section, “listed building” means –
- (a) a listed building (within the meaning given by section 76 of the Historic Environment (Wales) Act 2023) situated in Wales, or

- (b) a listed building (within the meaning given by section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990) situated in England.”

91 In section 336(1) –

- (a) in the definition of “conservation area”, after “section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990” insert “or section 158 of the Historic Environment (Wales) Act 2023”;
- (b) in the definition of “the planning Acts”, after “Planning (Listed Buildings and Conservation Areas) Act 1990,” insert “Parts 3 to 5 of the Historic Environment (Wales) Act 2023 (and Part 7 of that Act as it applies for the purposes of those Parts)”.

92 In Schedule 4B, in paragraph 8(5), for “has the same meaning as in the Planning (Listed Buildings and Conservation Areas) Act 1990” substitute –

“means –

- (a) a listed building (within the meaning given by section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990) situated in England, or
- (b) a listed building (within the meaning given by section 76 of the Historic Environment (Wales) Act 2023) situated in Wales.”

*Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*

93 The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.

94 In section 1 –

- (a) in subsection (1), after “buildings of special architectural or historic interest” insert “in England”;
- (b) omit subsection (2);
- (c) in subsection (4), omit “in relation to buildings which are situated in England”;
- (d) omit subsection (4A);
- (e) in subsection (5A), omit “situated in England”.

95 In section 2 –

- (a) in subsection (1) –
  - (i) in the words before paragraph (a), omit “, Welsh county, county borough,”;
  - (ii) after paragraph (a), insert “and”;
  - (iii) omit paragraph (c) and the “and” before it;
- (b) in subsection (3), in the words before paragraph (a) –
  - (i) omit “situated in England”;
  - (ii) for “any such building” substitute “any building”;
- (c) omit subsections (3A) and (3B).

- 96 Omit sections 2A to 2D.
- 97 In section 3 –
- (a) in the heading, omit “in England”;
  - (b) in subsection (1), for “If it appears to a local planning authority in England who are not a county planning authority” substitute “If it appears to a local planning authority, other than a county planning authority,”;
  - (c) in subsections (2), (3), (4), (5) and (6), omit “under this section”.
- 98 Omit section 3A.
- 99 In section 4(2), for “sections 3 and 3A,” substitute “section 3,”.
- 100 In section 5 –
- (a) at the beginning of subsection (1), omit “(1)”;
  - (b) omit subsection (2).
- 101 In section 6 –
- (a) in the heading, omit “: England”;
  - (b) in subsection (A1), omit “situated in England”.
- 102 Omit section 6A.
- 103 In section 8 –
- (a) in subsection (4) –
    - (i) in paragraph (a), omit “in relation to England,”;
    - (ii) omit paragraph (b);
  - (b) in subsection (6), omit paragraph (b) and the “and” before it.
- 104 In section 9, omit subsection (3A).
- 105 In section 12, omit subsection (4B).
- 106 In section 15(3), omit “in England”.
- 107 In section 20 –
- (a) in subsection (4), omit “in relation to England”;
  - (b) omit subsection (5).
- 108 In section 21 –
- (a) in subsection (4), omit “interim protection has effect or”;
  - (b) omit subsections (4A) and (4B);
  - (c) omit subsection (9).
- 109 In section 22 –
- (a) omit subsection (2B);
  - (b) in subsection (3), for “an appeal under section 20” substitute “the appeal”.
- 110 In section 26A(1), omit “, situated in England”.
- 111 In section 26C(1), omit “in England”.

- 112 In section 26D(1), omit “for any area in England”.
- 113 In section 26H(1), omit “in England”.
- 114 Omit sections 26L and 26M and the italic heading before section 26L.
- 115 Omit section 28B.
- 116 In section 29 –
- (a) in subsection (1), omit “in respect of a building situated in England”;
  - (b) omit subsection (1A).
- 117 In section 31(2), for “28, 28B, 29 and 44D” substitute “28 and 29”.
- 118 In section 32(1), in the words after paragraph (b), omit “, Welsh county, county borough,”.
- 119 In section 34(2) –
- (a) in paragraph (c), omit “in England”;
  - (b) omit paragraph (cc).
- 120 In section 40, omit subsection (2B).
- 121 In section 41 –
- (a) in subsection (4) –
    - (i) omit “section 40(2) would otherwise apply and”;
    - (ii) omit “of this section”;
  - (b) in subsection (8), omit “in England”.
- 122 In section 44A(4), omit “, as respects England,”.
- 123 Omit sections 44B to 44D.
- 124 In section 46 –
- (a) in subsection (2)(b), omit “if the land is situated in England,”;
  - (b) in subsection (5), omit “in England”.
- 125 In section 47 –
- (a) in subsection (3)(a), omit “situated in England”;
  - (b) in subsection (7), in the definition of “the appropriate authority,” in paragraph (a), omit “, county borough”.
- 126 In section 48(4), omit “situated in England”.
- 127 In section 49 –
- (a) in the heading, after “listed building” insert “in England or Wales”;
  - (b) the existing provision becomes subsection (1);
  - (c) after that subsection insert –
    - “(2) In subsection (1) –
      - (a) the reference to a building which was listed includes a building in Wales which was included in the list maintained under section 76 of the Historic Environment (Wales) Act 2023;

- (b) in relation to such a building –
    - (i) the reference to section 50 of this Act is to be read as a reference to section 140 of that Act;
    - (ii) the reference to listed building consent is a reference to consent under section 89 of that Act.”
- 128 In section 52(1) –
  - (a) in the words before paragraph (a) –
    - (i) for “, county borough,” substitute “in England,”;
    - (ii) after “joint planning board for an area” insert “in England”;
  - (b) in paragraph (a), after “building” insert “situated wholly or mainly in England”.
- 129 In section 53(3), omit “if they relate to property situated in England”.
- 130 In section 54 –
  - (a) in subsection (2) –
    - (i) in paragraph (a), omit “if the building is in England”;
    - (ii) omit paragraph (b);
  - (b) in subsection (4), omit “, in the case of a building in England,”;
  - (c) omit subsection (4A);
  - (d) omit subsection (5A);
  - (e) in subsection (6), omit “or (5A)”.
- 131 In section 55, omit subsections (5A) to (5G).
- 132 In section 57(7) –
  - (a) in paragraph (a), for “, county borough,” substitute “in England,”;
  - (b) in paragraph (b), after “principal Act” insert “for an area in England”.
- 133 In section 60(2), omit “, 3A”.
- 134 In section 61(2), for “sections 2B, 3, 3A,” substitute “sections 3,”.
- 135 In section 62(2), omit paragraph (za).
- 136 In section 66, after subsection (4) insert –
  - “(5) In this section, “listed building” includes a listed building (within the meaning given by section 76 of the Historic Environment (Wales) Act 2023) situated in Wales.”
- 137 In section 70 –
  - (a) in subsection (5)(b), omit “it affects an area in England and”;
  - (b) in subsection (6)(b), omit “if it affects an area in England,”.
- 138 In section 74 –
  - (a) omit subsections (1), (1A) and (2);
  - (b) in subsection (2A), omit “in England”;



- (c) omit subsections (3) and (4).
- 139 In section 75 –
- (a) omit subsection (6);
  - (b) omit subsection (10);
  - (c) in subsection (11), omit “under section 9 or 43 or”.
- 140 In section 76(2), omit “in respect of a building in England”.
- 141 In section 77 –
- (a) in subsection (1), omit “situated in England”;
  - (b) omit subsection (2);
  - (c) in subsection (3), omit “or (2)”;
  - (d) in subsection (4), omit “or, as the case may be, the Secretary of State”;
  - (e) omit subsection (6).
- 142 In section 79 –
- (a) in subsection (1), omit “, or the Secretary of State and one or more local authorities in Wales,”;
  - (b) in subsection (3), omit paragraph (aa).
- 143 In section 80 –
- (a) in subsection (1)(b), omit “in England”;
  - (b) omit subsection (2);
  - (c) in subsection (3), omit “or, as the case may be, the Secretary of State” in both places;
  - (d) in subsection (5), omit “or the Secretary of State”.
- 144 In section 81, after ““local planning authority”” insert “means a local planning authority for an area in England and”.
- 145 In section 82 –
- (a) in subsection (1) –
    - (i) omit “, (2)”;
    - (ii) omit “to 2D,”;
  - (b) in subsection (3) –
    - (i) omit “2B, 2C,”;
    - (ii) omit “28B,”;
    - (iii) omit “, 1A”.
- 146 In section 82A(2), omit paragraph (fa).
- 147 In section 86(2) –
- (a) in paragraph (a), omit “if the property is situated in England, then”;
  - (b) in paragraph (b), omit “in any case,”.
- 148 In section 88 –

- (a) omit subsection (3A);
  - (b) in subsection (4), for “, 28B, 29 or 44D” substitute “or 29”.
- 149 In section 88B, omit subsection (1A).
- 150 In section 88D –
  - (a) in the heading, omit “: England”;
  - (b) in subsection (7), in paragraphs (a), (b) and (c), omit “in England”.
- 151 Omit section 88E.
- 152 In section 89 –
  - (a) in subsection (1) –
    - (i) omit the entry for sections 319ZA to 319ZD;
    - (ii) in the entry for section 322, omit “: England”;
    - (iii) omit the entry for section 322C;
    - (iv) in the entry for section 323, omit “: England”;
    - (v) omit the entry for section 323A;
  - (b) in subsection (1A), omit “In the case of a building situated in England,”.
- 153 In section 90(5), after “council of a county” insert “in England”.
- 154 In section 91 –
  - (a) in subsection (1) –
    - (i) in the definition of “building preservation notice”, for “sections 3(1) and 3A(1)” substitute “section 3(1);
    - (ii) omit the definition of “interim protection”;
  - (b) in subsection (2), in the words after the list of expressions, omit “, 26L or 26M”.
- 155 In section 93 –
  - (a) in subsection (1), omit “in relation to England and the Welsh Ministers may make regulations under this Act in relation to Wales”;
  - (b) in subsection (3) –
    - (i) omit “, other than regulations under section 2A, 26M or 56A,”;
    - (ii) omit “(in the case of regulations made by the Secretary of State) or the National Assembly for Wales (in the case of regulations made by the Welsh Ministers)”;
  - (c) omit subsection (3A);
  - (d) in subsection (4) –
    - (i) omit “55(5B),”;
    - (ii) omit “, 88E”;
  - (e) in subsection (5) –
    - (i) omit “55(5B),”;

- (ii) omit “(in the case of an order made by the Secretary of State) or the National Assembly for Wales (in the case of an order made by the Welsh Ministers)”;
  - (f) in subsection (6), omit “or (as the case may be) the Welsh Ministers”.
- 156 In Schedule 1, in paragraph 2—
  - (a) in sub-paragraph (3), omit “situated in England”;
  - (b) omit sub-paragraph (4).
- 157 Omit Schedules 1A and 1B.
- 158 In Schedule 2—
  - (a) in paragraph 1—
    - (i) after sub-paragraph (a) insert “or”;
    - (ii) omit sub-paragraphs (c) and (d);
  - (b) in paragraph 2, for “, 43 or 44C” substitute “or 43”;
  - (c) omit paragraph 5.
- 159 In Schedule 3—
  - (a) in paragraph 2—
    - (i) omit sub-paragraph (4B);
    - (ii) omit sub-paragraph (10);
  - (b) in paragraph 3—
    - (i) omit sub-paragraphs (4C) and (4D);
    - (ii) in sub-paragraph (5), omit “or (4D)”;
  - (c) in paragraph 6—
    - (i) omit sub-paragraph (1B);
    - (ii) in sub-paragraph (2)(a), omit “or this paragraph”;
    - (iii) in sub-paragraph (4), omit “in England”;
    - (iv) omit sub-paragraph (4A);
    - (v) in sub-paragraph (5), for “inquiry held by virtue of this paragraph” substitute “such inquiry”;
    - (vi) in sub-paragraph (8), omit “in England”;
  - (d) in paragraph 7, omit sub-paragraph (3);
  - (e) omit paragraph 8 and the italic heading before it.
- 160 In Schedule 4—
  - (a) in paragraph 1—
    - (i) at the beginning of sub-paragraph (1), omit “(1)”;
    - (ii) omit sub-paragraph (2);
  - (b) in paragraph 7(1)—
    - (i) omit “3A,”;

- (ii) omit “44D,”.

*Planning and Compensation Act 1991 (c. 34)*

161 In Part 1 of Schedule 18 to the Planning and Compensation Act 1991, after the entry relating to section 29(5) of the Land Drainage Act 1991 insert –

“Section 8 of the Historic Environment (Wales) Act 2023	Date interim protection takes effect
Section 21 of that Act	Date scheduled monument consent is refused or granted subject to conditions
Section 24 of that Act	Date works ceased to be authorised
Section 28 of that Act	Date notice of proposed termination is served
Section 34 of that Act	Date temporary stop notice takes effect
Section 70 of that Act	Date damage is caused
Section 80 of that Act	Date interim protection takes effect
Section 86 of that Act	Date temporary listing notice is served
Section 108 of that Act	Date modification or revocation of consent takes effect
Section 116 of that Act	Date termination of agreement or provision takes effect
Section 122 of that Act	Date temporary stop notice takes effect
Section 155(4) of that Act	Date damage is caused”

*Coal Mining Subsidence Act 1991 (c. 45)*

162 In section 19 of the Coal Mining Subsidence Act 1991, after subsection (1) insert –

“(1A) This section also applies where any property in Wales which –

- (a) is a scheduled monument within the meaning given by section 3 of the Historic Environment (Wales) Act 2023,
- (b) has been notified to the Corporation by the Secretary of State as a monument of special historic interest, within the meaning given by section 75(6) of that Act, for the time being under the guardianship of the Welsh Ministers, or
- (c) is a listed building within the meaning given by section 76 of that Act, and is not of a description specified in an order made by the Secretary of State,

is affected by subsidence damage and the character of the property as one of historic, architectural, archaeological or other special interest is or may be affected by that damage.”

*Land Drainage Act 1991 (c. 59)*

163 In section 67(3) of the Land Drainage Act 1991, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or Part 2 of the Historic Environment (Wales) Act 2023”.

*Protection of Badgers Act 1992 (c. 51)*

- 164 In section 10(1)(e) of the Protection of Badgers Act 1992, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or section 3 of the Historic Environment (Wales) Act 2023”.

*Tribunals and Inquiries Act 1992 (c. 53)*

- 165 In section 16(1) of the Tribunals and Inquiries Act 1992, in the definition of “statutory inquiry”, for “the Planning (Listed Buildings and Conservation Areas) Act 1990” substitute “Parts 3 to 5 of the Historic Environment (Wales) Act 2023”.

*Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)*

- 166 In section 70 of the Leasehold Reform, Housing and Urban Development Act 1993 –
- (a) in subsection (14) –
    - (i) in the words before paragraph (a), for “in section 73” substitute “section 73 as they apply in relation to England,”;
    - (ii) in paragraph (a), after “Town and Country Planning Act 1990” insert “as it applies in relation to England,”;
  - (b) after subsection (14) insert –
    - “(15) In this section and section 73 as they apply in relation to Wales –
      - (a) “conservation area” has the same meaning as in the Historic Environment (Wales) Act 2023;
      - (b) “local planning authority” is to be interpreted in accordance with Part 1 of the Town and Country Planning Act 1990, and in that Part as it applies in relation to Wales references to “the planning Acts” are to be treated as including this Act.”

*Local Government (Wales) Act 1994 (c. 19)*

- 167 The Local Government (Wales) Act 1994 is amended as follows.
- 168 In Schedule 6, omit paragraph 25 and the italic heading before it.
- 169 In Schedule 16, omit paragraph 56 and the italic heading before it.

*Value Added Tax Act 1994 (c. 23)*

- 170 In Schedule 8 to the Value Added Tax Act 1994, in Group 6, in Note (1) –
- (a) in paragraph (a), after sub-paragraph (i) insert –
    - “(ia) the Historic Environment (Wales) Act 2023; or”;
  - (b) in paragraph (b), after sub-paragraph (i) insert –
    - “(ia) the Historic Environment (Wales) Act 2023; or”.

*Criminal Justice and Public Order Act 1994 (c. 33)*

- 171 The Criminal Justice and Public Order Act 1994 is amended as follows.

- 172 In section 60C(8), in paragraph (b) of the definition of “land”, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or the Historic Environment (Wales) Act 2023”.
- 173 In section 61(9), in paragraph (a)(ii) of the definition of “land”, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or the Historic Environment (Wales) Act 2023”.
- 174 In section 62E(2)(b), after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or the Historic Environment (Wales) Act 2023”.

*Environment Act 1995 (c. 25)*

- 175 In Schedule 9 to the Environment Act 1995, in paragraph 13(1), omit “and in section 6 of the Historic Buildings and Ancient Monuments Act 1953 (under which grants for the acquisition of buildings in Wales may be made)”.

*Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11)*

- 176 In Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997, in paragraph 4, omit sub-paragraph (2).

*National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)*

- 177 In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, omit the entries for –
- (a) the Historic Buildings and Ancient Monuments Act 1953;
  - (b) the Mines (Working Facilities and Support) Act 1966;
  - (c) the Ancient Monuments and Archaeological Areas Act 1979;
  - (d) the Planning (Listed Buildings and Conservation Areas) Act 1990.

*Countryside and Rights of Way Act 2000 (c. 37)*

- 178 The Countryside and Rights of Way Act 2000 is amended as follows.
- 179 In section 15(1), after paragraph (d) insert –
- “or
- (e) the public have access to it under subsection (1) of section 55 of the Historic Environment (Wales) Act 2023 (public access to monuments under public control) or would have access to it under that subsection but for any of the things mentioned in paragraphs (a) to (c) of that subsection.”
- 180 In section 26(3)(b)(i), after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or section 3 of the Historic Environment (Wales) Act 2023”.

*Planning and Compulsory Purchase Act 2004 (c. 5)*

- 181 In section 81 of the Planning and Compulsory Purchase Act 2004, omit subsection (2).

*Government of Wales Act 2006 (c. 32)*

- 182 The Government of Wales Act 2006 is amended as follows.
- 183 In Schedule 3A, in the table in paragraph 1, omit the entry relating to paragraph 6(6) of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 184 In Schedule 10, omit paragraph 36.

*National Assembly for Wales Commission (Crown Status) (No. 2) Order 2007 (S.I. 2007/1353)*

- 185 In the National Assembly for Wales Commission (Crown Status) (No. 2) Order 2007 –
- (a) omit article 3;
  - (b) omit article 5.

*Regulatory Enforcement and Sanctions Act 2008 (c. 13)*

- 186 In Schedule 7 to the Regulatory Enforcement and Sanctions Act 2008, at the appropriate place insert –
- “Historic Environment (Wales) Act 2023, section 147”.

*Planning Act 2008 (c. 29)*

- 187 In Schedule 2 to the Planning Act 2008, omit paragraph 41.

*Enterprise and Regulatory Reform Act 2013 (c. 24)*

- 188 In Schedule 17 to the Enterprise and Regulatory Reform Act 2013, in paragraph 12 –
- (a) omit sub-paragraph (2);
  - (b) omit sub-paragraphs (4) and (5).

*Planning (Wales) Act 2015 (anaw 4)*

- 189 The Planning (Wales) Act 2015 is amended as follows.
- 190 Omit section 39(3).
- 191 Omit section 47(3).
- 192 In Schedule 5, omit paragraphs 19 to 22 and the italic heading before paragraph 19.

*Historic Environment (Wales) Act 2016 (anaw 4)*

- 193 The Historic Environment (Wales) Act 2016 is repealed.

*Housing and Planning Act 2016 (c. 22)*

- 194 In section 5(8) of the Housing and Planning Act 2016, in the new section 70(3) of the Town and Country Planning Act 1990, after paragraph (c) insert –
- “(ca) section 160 of the Historic Environment (Wales) Act 2023;”.

*Public Services Ombudsman (Wales) Act 2019 (anaw 3)*

- 195 In Schedule 5 to the Public Services Ombudsman (Wales) Act 2019 –
- (a) omit paragraph 10 and the italic heading before it;
  - (b) omit paragraphs 13 and 14 and the italic heading before paragraph 13.

*Sentencing Act 2020 (c. 17)*

- 196 In section 137(3) of the Sentencing Act 2020, for “is to be made” substitute “in England is to be made, and section 59 of the Historic Environment (Wales) Act 2023 makes equivalent provision for monuments in Wales”.



SCHEDULE 14  
(introduced by section 211(2))

TRANSITIONAL AND SAVING PROVISIONS

PART 1

GENERAL PROVISIONS

*Statutory and other references to this Act*

- 1 (1) This paragraph applies to any reference (express or implied) in this Act or any other enactment, or in any other instrument or document, to –
- (a) a provision of this Act, or
  - (b) anything done or to be done under or for the purposes of a provision of this Act.
- (2) In relation to any time when a corresponding provision of a repealed enactment (or of any earlier enactment) had effect, the reference is to be read as including a reference to –
- (a) the corresponding provision as it had effect at that time, or
  - (b) things done or to be done under or for the purposes of that provision as it had effect at that time.

*Documents referring to repealed enactments*

- 2 (1) This paragraph applies to any reference to a repealed enactment which is contained in a document made, served or issued after the repeal of that enactment.
- (2) Unless the context requires otherwise, the reference is to be read (according to the context) as referring to, or including a reference to, the corresponding provision of this Act.

*Relationship with Legislation (Wales) Act 2019*

- 3 This Schedule applies in addition to sections 34 and 35 of the Legislation (Wales) Act 2019 (anaw 4) (general savings and effect of re-enactment) and does not limit the operation of those sections in connection with the repeal, revocation or re-enactment of any enactment by this Act.

*Interpretation*

- 4 In this Part of this Schedule –
- (a) references to a provision of this Act include a provision inserted into any other enactment by this Act;
  - (b) “repealed enactment” means any enactment that is repealed by this Act;

- (c) references to repealing an enactment include excluding or limiting its application or effect (whether in relation to Wales or otherwise).

## PART 2

## GUARDIANSHIP OF MONUMENTS

*Guardianship orders made under 1953 Act*

- 5 (1) Where, immediately before Part 2 of this Act comes into force, the Welsh Ministers are guardians of a monument by virtue of a guardianship order –
- (a) made, or treated as having been made, under section 12(5) of the Historic Buildings and Ancient Monuments Act 1953 (c. 49), and
  - (b) continued in force by paragraph 2(1) of Schedule 3 to the Ancient Monuments and Archaeological Areas Act 1979 (c. 46),
- the order continues in force despite the coming into force of that Part.
- (2) That Part applies while the guardianship order is in force as if the Welsh Ministers had been appointed as guardians of the monument by a deed under section 45 of this Act –
- (a) not containing any restriction not contained in the order, and
  - (b) executed by all the persons who, at the time when the order was made, were able by deed to appoint the Welsh Ministers guardians of the monument.
- (3) The Welsh Ministers may revoke a guardianship order to which this paragraph applies.

*Control and management of monument where guardianship pre-dates 1979 Act*

- 6 (1) This paragraph applies where –
- (a) a monument was taken into guardianship before 9 October 1981 (the date Part 1 of the Ancient Monuments and Archaeological Areas Act 1979 came into force), and
  - (b) immediately before Part 2 of this Act comes into force, the monument is under the guardianship of the Welsh Ministers or a local authority.
- (2) Section 47(2) (full control and management) does not apply to the monument unless –
- (a) the deed establishing guardianship provided for control and management of the monument by the guardians, or
  - (b) the persons for the time being immediately affected by the operation of the guardianship deed have consented to the control and management of the monument by the guardians.

*Public access to monument where guardianship pre-dates 1913 Act*

- 7 (1) This paragraph applies where –

- (a) a monument was taken into guardianship before 15 August 1913 (the date the Ancient Monuments Consolidation and Amendment Act 1913 (c. 32) came into force), and
  - (b) immediately before Part 2 of this Act comes into force, the monument is under the guardianship of the Welsh Ministers or a local authority.
- (2) Section 55(1) (duty to ensure public access) does not apply to the monument unless –
- (a) the deed establishing guardianship provided for public access to the monument, or
  - (b) the persons for the time being immediately affected by the operation of the guardianship deed have consented to the public having access to the monument.

### *Interpretation*

- 8 For the purposes of paragraphs 6 and 7, a person is immediately affected by the operation of a guardianship deed relating to a monument if the person is bound by that deed and is in possession or occupation of the monument.

## PART 3

### MISCELLANEOUS

#### *Offence of breaching temporary stop notice in relation to scheduled monument*

- 9 Section 33(4)(b) does not apply in relation to proceedings for an offence relating to a temporary stop notice that was issued before section 33 comes into force.

#### *Service and taking effect of enforcement notice in relation to scheduled monument*

- 10 Section 36(5)(a) does not apply in relation to the service of an enforcement notice that was issued before section 36 comes into force.

#### *Purchase notice served on council in relation to building in National Park*

- 11 (1) Sub-paragraph (2) applies in relation to a purchase notice that has been served on a county council or county borough council in Wales in relation to a building in a National Park before section 109 comes into force.
- (2) The following provisions are to be read as if references to a planning authority were references to the council –
- (a) section 183(7)(c);
  - (b) section 186(3) and (7);
  - (c) Schedule 9.