

HISTORIC ENVIRONMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Ancient Monuments Etc

Section 11 – Heritage partnership agreements

58. **Section 11** inserts new sections 9ZA and 9ZB into the 1979 Act which make provision for heritage partnership agreements in Wales. In broad terms, heritage partnership agreements are agreements between the Welsh Ministers and the owners of scheduled monuments which may grant scheduled monument consent for a programme of specified works, negating the need to apply for separate consent for each set of works.

9ZA Heritage partnership agreement

59. Section 9ZA(1) sets out that the parties to an agreement must include the Welsh Ministers and the owner of a scheduled monument or of land adjoining or in the vicinity of a scheduled monument. Section 9ZA(2) allows additional persons to be parties to an agreement, including any person with an interest in the asset, such as a community group, or any person involved in the management of the asset, such as a site manager.
60. A heritage partnership agreement may grant scheduled monument consent for specified works for the purpose of:
- removing or repairing the scheduled monument, or
 - making any alterations or additions to the monument.
61. An agreement may also specify any conditions attached to that consent.
62. A heritage partnership agreement may not grant scheduled monument consent for works that result in the demolition or destruction of, or any damage to, a scheduled monument (section 2(2)(a) of the 1979 Act) or for any flooding or tipping operations on land in, on or under which there is a scheduled monument (section 2(2)(c) of the 1979 Act).
63. Section 9ZA(4) sets out the range of additional matters for which a heritage partnership agreement may make provision, including the specification of works that the parties agree would not require scheduled monument consent.
64. Section 9ZA(6) and (7) defines "owner" for the purpose of heritage partnership agreements and allows the Welsh Ministers to enter into an agreement with any one or more of the owners of a scheduled monument that is in multiple ownership, without having to enter into an agreement with all such owners.

9ZB Heritage partnership agreement: supplemental

65. New section 9ZB makes supplemental provision in relation to heritage partnership agreements. Section 9ZB(1) specifies that such agreements must be in writing and must make provision for review, termination and variation by the parties.

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

66. Section 9ZB(2) makes it clear that more than one scheduled monument can be the subject of an agreement, provided that in each case the Welsh Ministers and the owner are parties to the agreement.
67. Section 9ZB(3) places a duty upon the Welsh Ministers to make regulations to provide for: the consultation and publicity required for the creation or variation of a heritage partnership agreement; terms that must be included in a heritage partnership agreement; and the termination of a heritage partnership agreement or any provision thereof.
68. Section 9ZB(4) and (5) specifies the persons who must be consulted under the consultation arrangements for the creation or variation of a heritage partnership agreement. The consultation arrangements differ for a heritage partnership agreement that covers a scheduled monument and for one that covers land adjoining or in the vicinity of a scheduled monument.
69. Section 9ZB(6) provides that the regulations made by the Welsh Ministers enabling the termination by order of a heritage partnership agreement can contain supplementary, incidental, transitory, transitional or saving provision.
70. Section 9ZB(7) allows the regulations to disapply, apply or reproduce, with or without modification, any provisions of the 1979 Act for the purpose of heritage partnership agreements.
71. Section 9ZB(8) provides that heritage partnership agreements will only be binding on parties to those agreements. Future owners of the scheduled monument will not be bound by a heritage partnership agreement, nor will they be able to benefit from any scheduled monument consent granted by the agreement.