
WELSH STATUTORY INSTRUMENTS

2017 No. 642 (W. 148)

ANCIENT MONUMENTS, WALES

The Ancient Monuments (Applications for Scheduled Monument Consent) (Wales) Regulations 2017

<i>Made</i>	- - - -	<i>4 May 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>8 May 2017</i>
<i>Coming into force</i>	- -	<i>31 May 2017</i>

The Welsh Ministers, in exercise of the powers conferred on them by sections 2 and 60 of, and Schedule 1 to, the Ancient Monuments and Archaeological Areas Act 1979⁽¹⁾, and in exercise of the powers conferred on the Secretary of State by section 60 of, and Schedule 1 to, that Act and now exercisable by them⁽²⁾, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Ancient Monuments (Applications for Scheduled Monument Consent) (Wales) Regulations 2017 and they come into force on 31 May 2017.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Ancient Monuments and Archaeological Areas Act 1979;

“applicant” (“*ceisydd*”) means a person making, or who has made, an application;

“application” (“*cais*”) means an application for scheduled monument consent under section 2 of the Act.

(1) 1979 c. 46; section 2 and Schedule 1 were amended by section 5(1) of the [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#) (“the 2016 Act”). Section 60 was amended by section 40(1) of the 2016 Act. There are other amendments to section 2 and Schedule 1 which are not relevant to this instrument.

(2) The functions of the Secretary of State were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

Applications

3.—(1) Except where both paragraph (2) applies and the Welsh Ministers exercise their discretion under paragraph (3), an application must—

- (a) be made in writing in the form published by the Welsh Ministers (or a form substantially to like effect);
- (b) include the particulars specified or referred to in the form;
- (c) state the name and address of the owner of the scheduled monument(3), if the applicant is not the owner,
- (d) state the name and address of the occupier of the monument, if the applicant is not the occupier; and
- (e) be accompanied by—
 - (i) a plan or drawing, sufficient to identify the area of land to which the works relate; and
 - (ii) such other plans, drawings and information as are necessary to describe the works and the impact of the works on the monument.

(2) This paragraph applies to applications in respect of works which are—

- (a) minor in nature; and
- (b) 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 as referred to in section 2(2)(b) of the Act.

(3) Where paragraph (2) applies, an application may, at the discretion of the Welsh Ministers, be made otherwise than as provided for in paragraph (1).

(4) In any case, the applicant must supply the Welsh Ministers with such further information as the Welsh Ministers may at any time require to enable them to determine the application.

Persons to be treated as the owners of monuments

4. In relation to any monument, a person is to be treated for the purposes of paragraph 2 of Schedule 1 to the Act as the owner of the monument if the person is for the time being the estate owner of the fee simple in the monument or is entitled to a tenancy of the monument granted or extended for a term of years certain of which not less than seven years remain unexpired.

Scheduled monument consent

5. Where the Welsh Ministers grant scheduled monument consent(4), the consent must—

- (a) be given in writing; and
- (b) set out any conditions to which the consent is subject.

Consequential amendments to the Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992

6.—(1) The Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992(5) are amended as follows.

(2) In regulation 2 (interpretation) insert at the appropriate place—

(3) See section 1(11) of the Act for the definition of “scheduled monument”.

(4) See section 2(3)(a) of the Act for the definition of “scheduled monument consent”.

(5) S.I. 1992/3138.

““the 2017 Regulations” means the Ancient Monuments (Applications for Scheduled Monument Consent) (Wales) Regulations 2017;”.

(3) In regulation 4(2), for “and the Ancient Monuments Regulations” substitute “, the Ancient Monuments Regulations and the 2017 Regulations”.

(4) In Schedule 2—

(a) in the heading to the Schedule, for “and the Ancient Monuments Regulations”, substitute “, the Ancient Monuments Regulations and the 2017 Regulations”; and

(b) after paragraph 2, insert—

“3.—(1) The 2017 Regulations are modified as follows.

(2) For regulation 3(1)(e) substitute—

“(e) be accompanied by—

(i) a plan identifying the monument to which the application relates;

(ii) such other plans and drawings as are necessary to describe the works and which may include—

(aa) detailed plans, drawings and sections; or

(bb) extracts from the plans, drawings and sections submitted with the concurrent application; or

(cc) where no plans, drawings or sections have been prepared, a clear written description of the works supported by such other materials as the applicant is reasonably able to provide;

(iii) a statement that the application is made for the purpose of proposals included in the concurrent application, which must give (where known) the date and reference number of the concurrent application.”

(3) After regulation 3(4) insert—

“(5) In this regulation, “concurrent application” has the meaning given by paragraph 2(4A) of Schedule 1 to the Act(6).”

(4) After regulation 3 insert—

“Certificate

3A.—(1) A certificate which by virtue of paragraph 2(1)(aa) of Schedule 1 to the Act accompanies an application must be in the form set out in paragraph (2).

(2) The form of certificate is as follows—

(6) For paragraph 2(4A) see paragraph 1(4) of Schedule 2 to [S.I. 1992/3138](#).

Certificate in accordance with paragraph 2(1)(aa) of Schedule 1 to the 1979 Act

It is hereby certified—

(1) that the applicant has served, in accordance with rules made under section 6 of the Transport and Works Act 1992, all the notices required to be served upon the persons (other than the applicant) who were, at the beginning of the period of 28 days ending with the date of an application under section 6, owners of the monument;

(2) every such notice contains a statement that the accompanying application for scheduled monument consent has been made in respect of the monument.

Signature

Date

(5) For regulation 4 substitute—

“4. In relation to any monument, a person is to be treated for the purpose of paragraph 2 of Schedule 1 to the Act as the owner of the monument if the person, not being a mortgagee not in possession, is for the time being entitled to dispose of the fee simple of the monument (whether in possession or reversion) or is a person holding, or entitled to the rents and profits of the land under a lease or agreement the unexpired term of which exceeds three years.””

Consequential amendment to the Developments of National Significance (Wales) Regulations 2016

7.—(1) In the Developments of National Significance (Wales) Regulations 2016(7), for paragraph 1(2)(b) of Schedule 2 substitute—

“(b) the items listed or referred to in regulation 3(1) of the Ancient Monuments (Applications for Scheduled Monument Consent) (Wales) Regulations 2017.”

(2) Paragraph (1) does not apply in relation to an application for planning permission made under section 62D of the Town and Country Planning Act 1990(8) before 31 May 2017.

Revocations and saving provision

8.—(1) Subject to paragraph (2), the following instruments are revoked—

- (a) the Ancient Monuments (Applications for Scheduled Monument Consent) Regulations 1981(9), in so far as they apply in relation to Wales; and
- (b) the Ancient Monuments (Applications for Scheduled Monument Consent) (Welsh Forms and Particulars) Regulations 2001(10).

(2) The Regulations mentioned in paragraph (1) continue to have effect in relation to applications made before 31 May 2017.

(7) S.I. 2016/56 (W. 26).

(8) 1990 c. 8. Section 62D was inserted by section 19 of the [Planning \(Wales\) Act 2015](#) (anaw 4).

(9) S.I. 1981/1301.

(10) S.I. 2001/1438 (W. 100).

4 May 2017

Ken Skates
Cabinet Secretary for Economy and
Infrastructure, one of the Welsh Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for applications for, and the grant of scheduled monument consent, including a simplified procedure for making applications.

Regulations 3 to 5 make provision about applications and the form and manner in which scheduled monument consent is given by the Welsh Ministers.

Regulations 6 and 7 make consequential amendments to the Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992 and the Developments of National Significance (Wales) Regulations 2016.

Regulation 8 revokes the Ancient Monuments (Applications for Scheduled Monument Consent) Regulations 1981 in relation to Wales and the Ancient Monuments (Applications for Scheduled Monument Consent) (Welsh Forms and Particulars) Regulations 2001 and contains a saving provision.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a Regulatory Impact Assessment as to the likely costs and benefits of complying with these Regulations. The Impact Assessment prepared for the Historic Environment (Wales) Act 2016 is relevant and is available from Historic Environment Services (Cadw), Welsh Government, Plas Carew, Cardiff, CF15 7QQ and on the Welsh Government's website at www.wales.gov.uk.