

# HISTORIC ENVIRONMENT (WALES) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Listed Buildings**

#### *Section 24 – Amendments relating to the listing of buildings*

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

145. New section 2D makes provision for the review of certain listing decisions.
146. Section 2D applies where the Welsh Ministers include a building on the list. Section 2D(2) requires the Welsh Ministers to serve a notice on the owner and occupier of the building informing them that the building has been included in the list and that they may make an application to the Welsh Ministers requesting them to review their decision.
147. Section 2D(3) requires the Welsh Ministers to carry out a review if requested to do so, and to make a decision on the review. It also requires them to amend the list if it is necessary to do so to give effect to the final decision.
148. Section 2D(4) prohibits any legal challenge to the validity of a decision made on a review, unless that challenge is brought by means of proceedings in the High Court under sections 62 and 63 of the 1990 Act (validity of instruments, decisions and proceedings). The decision may only be challenged under sections 62 and 63 on the grounds that the decision was not within the powers of the Act, or that any of the relevant requirements had not been complied with in relation to the decision.
149. Section 2D(5) requires the Welsh Ministers to carry out the review by means of a local inquiry, a hearing or written representations. The Welsh Ministers may decide which procedure is the most appropriate.
150. Section 2D(6) requires the Welsh Ministers to make regulations about: the grounds on which an application for a review may be made, the form and manner of such an application, the information that must be provided in connection with an application, and the period within which an application must be made.
151. Section 2D(7) enables the Welsh Ministers to make regulations on other procedural matters relating to reviews.
152. Section 2D(8) introduces Schedule 1B into the 1990 Act, which allows the Welsh Ministers to appoint a person to make decisions on reviews.
153. [Section 24\(2\)](#) inserts new subsection (3A) into section 9 of the 1990 Act (offences). This new subsection provides a defence for a person who is accused of carrying out unauthorised works to a building on which interim protection has been conferred. The defence applies where the person can prove that he or she did not know, and could not reasonably have been expected to know, that interim protection had been conferred on the building. If such a defence is raised by a person on whom a notice should have

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

been served under section 2A(2), the prosecution will have to prove that the notice was served.

154. [Section 24\(3\)](#) inserts new section 28B into the 1990 Act which makes provision for compensation for loss or damage caused by interim protection if the Welsh Ministers decide not to include a building on the list.