



# Historic Environment (Wales) Act 2016

2016 anaw 4

## PART 2

### ANCIENT MONUMENTS ETC

#### *Scheduled monument consent*

#### **5 Simplification of process**

- (1) In section 2 of the [Ancient Monuments and Archaeological Areas Act 1979 \(c.46\)](#) (control of works affecting scheduled monuments), after subsection (5) insert—

“(5A) In the case of a monument situated in Wales, the reference in subsection (3) (a) to the granting of written consent includes a reference to the granting of consent in such other manner as may be prescribed by the Welsh Ministers.

(5B) The Welsh Ministers may by regulations make provision as to the form and content of consent under this section in relation to a monument situated in Wales.”

- (2) In Part 1 of Schedule 1 to that Act (applications for scheduled monument consent), at the end of paragraph 1 insert—

“(3) The Welsh Ministers may by regulations make provision as to cases in which an applicant for scheduled monument consent in relation to a monument situated in Wales may make the application otherwise than in the form provided for under sub-paragraph (1); and such provision may confer a discretion on the Welsh Ministers.”

#### **6 Grant of consent for unauthorised works**

- (1) In section 2 of the [Ancient Monuments and Archaeological Areas Act 1979 \(c.46\)](#) (control of works affecting scheduled monuments), after subsection (3) insert—

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*Status: This is the original version (as it was originally enacted).*

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“(3A) If works to which this section applies have been executed in relation to a scheduled monument situated in Wales or land in, on or under which there is such a scheduled monument without being authorised under this Part, and the Welsh Ministers grant consent for the retention of the works, the works are authorised under this Part from the grant of the consent.

(3B) References in this Act to scheduled monument consent (other than in section 4) include a reference to consent under subsection (3A).”

(2) In section 61(1) of that Act (interpretation), in the definition of “scheduled monument”, after “section 2(3)” insert “and (3B)”.

## 7 Offence of false information on application

In Part 1 of Schedule 1 to the [Ancient Monuments and Archaeological Areas Act 1979 \(c.46\)](#) (applications for scheduled monument consent), in paragraph 2(4), after “the requirements of this paragraph” insert “or of regulations made by the Welsh Ministers under it”.

## 8 Refusal of repeat applications etc

In Part 1 of Schedule 1 to the [Ancient Monuments and Archaeological Areas Act 1979 \(c.46\)](#) (applications for scheduled monument consent), after paragraph 2A insert—

“2B (1) The Welsh Ministers may refuse to entertain an application for scheduled monument consent if—

- (a) within the period of 2 years ending with the date on which the application is received, the Welsh Ministers have refused a similar application; and
- (b) in their opinion, there has been no significant change in any material considerations since the similar application was refused.

(2) The Welsh Ministers may refuse to entertain 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 paragraph, an application for scheduled monument consent is to be taken to be similar to another such application only if the works to which the applications relate are, in the Welsh Ministers’ opinion, the same or substantially the same.”

## 9 Procedure for determining applications

(1) In Part 1 of Schedule 1 to the [Ancient Monuments and Archaeological Areas Act 1979 \(c.46\)](#) (applications for scheduled monument consent), in paragraph 3, after subparagraph (4) insert—

“(5) This paragraph does not apply to applications for scheduled monument consent in respect of works to a scheduled monument situated in Wales.”

(2) After paragraph 3 of that Schedule insert—

“3A (1) This paragraph applies to applications for scheduled monument consent in respect of works to a scheduled monument situated in Wales.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The Welsh Ministers may grant scheduled monument consent in respect of all or any part of the works to which an application relates.
- (3) Before determining whether or not to grant scheduled monument consent on an application, the Welsh Ministers may—
  - (a) cause a public local inquiry to be held; or
  - (b) afford to the applicant, and to any other person to whom it appears to the Welsh Ministers expedient to do so—
    - (i) an opportunity to appear before and be heard by a person appointed by the Welsh Ministers for that purpose; or
    - (ii) an opportunity to make representations to a person appointed by the Welsh Ministers for that purpose.
- (4) Before determining whether or not to grant scheduled monument consent on an application, the Welsh Ministers—
  - (a) must, in every case, consider any representations made by any person with respect to that application; and
  - (b) must also, if an inquiry or hearing has been held or representations have been made in accordance with sub-paragraph (3), consider the report of the person who held the inquiry or hearing or to whom the representations were made.
- (5) 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.”

## **10 Compensation for refusal of scheduled monument consent**

- (1) In section 7 of the [Ancient Monuments and Archaeological Areas Act 1979 \(c.46\)](#), in subsection (4), at the beginning insert “In the case of a monument situated in England,”.
- (2) After that subsection insert—
  - “(4A) In the case of a monument situated in Wales, a person is not entitled to compensation under this section by virtue of subsection (2)(b) if the works in question or any of them would or might result in the total or partial demolition or destruction of the monument, unless those works consist solely of operations involved in or incidental to the use of the site of the monument for purposes specified by the Welsh Ministers by regulations.”