

Status: Point in time view as at 31/05/2017.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2016, SCHEDULE 1. (See end of Document for details)

SCHEDULE 1

(introduced by section 3)

SCHEDULES A1 AND A2 TO BE INSERTED INTO THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979

Commencement Information

- I1** [Sch. 1](#) in force at Royal Assent for specified purposes, see [s. 41\(1\)\(c\)](#)
I2 [Sch. 1](#) in force at 31.5.2017 in so far as not already in force by [S.I. 2017/633](#), [art. 5\(e\)](#)

“SCHEDULE A1

(introduced by section 1AC)

LAPSE OF INTERIM PROTECTION

- 1 This Schedule applies where interim protection ceases to have effect in relation to a monument as a result of the issue of a notice under section 1AB(4)(b) or (5)(b).
- 2 The fact that the interim protection has ceased to have effect does not affect the liability of any person to be prosecuted and punished for an offence under section 2, 9ZG, 9ZK, 28 or 42 committed with respect to the monument while the interim protection had effect.
- 3 Any proceedings on or arising out of an application for scheduled monument consent with respect to the monument lapse, in so far as they relate to consent required by virtue of the interim protection; and any such consent granted lapses to the same extent.
- 4 (1) Any scheduled monument enforcement notice served by the Welsh Ministers with respect 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 on or arising out of such a notice under section 9ZE or 9ZF(4) lapse, in so far as the notice relates to works affecting anything in respect of which the interim protection had effect.
- (3) Notwithstanding sub-paragraph (1), section 9ZF(2) continues to have effect as respects any expenses incurred by a person authorised by the Welsh Ministers as mentioned in section 9ZF(1), and with respect to any sums paid on account of such expenses.
- 5 Any temporary stop notice served by the Welsh Ministers with respect 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.
- 6 Any proceedings on an application made by the Welsh Ministers under section 9ZM with respect to the monument lapse, in so far as they relate to the restraint of any actual or apprehended contravention in relation to anything in respect of which the interim protection had effect.

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SCHEDULE A2

(introduced by section 1AE)

DECISIONS ON REVIEWS BY PERSON APPOINTED BY WELSH MINISTERS

Decisions on reviews by appointed persons

- 1 (1) The Welsh Ministers may by regulations prescribe the classes of reviews under section 1AE on which a decision is to be made by a person appointed by the Welsh Ministers for the purpose instead of by the Welsh Ministers.
- (2) Decisions on reviews of a prescribed class are to be made accordingly.
- (3) This paragraph does not affect any provision in this Act or any instrument made under it that an application for a review is to be made to the Welsh Ministers.
- (4) A person appointed under this paragraph is referred to in this Schedule as “an appointed person”.

Powers and duties of appointed person

- 2 (1) An appointed person has the same powers and duties in relation to a review under section 1AE as the Welsh Ministers have under—
 - (a) subsections (3)(a) and (b) and (5) of that section; and
 - (b) regulations made by virtue of subsection (7) of that section.
- (2) Where an appointed person makes a decision on a review, the decision is to be treated as that of the Welsh Ministers.
- (3) Except as provided by section 55, the validity of that decision is not to be questioned in any legal proceedings.
- (4) No application may be made to the High Court under section 55 on the ground that a decision on a review ought to have been made by the Welsh Ministers and not by an appointed person unless the person who made the application for the review challenges the appointed person's power to make the decision before the decision is made.

Appointment of another person to make a decision on a review

- 3 (1) At any time before an appointed person has made a decision on a review under section 1AE the Welsh Ministers may—
 - (a) revoke the person's appointment; and
 - (b) appoint another person under paragraph 1 to make the decision instead.
- (2) Where such a new appointment is made, the review, and any inquiry or other hearing in connection with the review, must be begun afresh.
- (3) Nothing in sub-paragraph (2) requires any person to be given an opportunity to make fresh representations or to modify or withdraw any representations already made.

Public local inquiries, hearings and written representations

- 4 (1) An appointed person may appoint an assessor to provide advice on—
 - (a) any matters arising at a public local inquiry or hearing held by the appointed person in connection with a review under section 1AE or in consequence of such an inquiry or hearing; or

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- (b) any matters arising in written representations made to the appointed person in connection with such a review or in consequence of such representations.
- (2) Section 250(2) and (3) of the Local Government Act 1972 (local inquiries: evidence) applies to a public local inquiry held by an appointed person.

Directions

- 5 (1) The Welsh Ministers may direct that anything that would fall to be done by an appointed person in connection with a review under section 1AE, other than the making of a decision on the review under subsection (3)(b) of that section, is to be done instead by the Welsh Ministers.
- (2) A direction given under sub-paragraph (1) may be amended or withdrawn by a further direction.

Delegation

- 6 (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 under section 1AE, other than—
- (a) the conduct of a public local inquiry or hearing; and
 - (b) the making of a decision on the review under subsection (3)(b) of that section.
- (2) A delegation under sub-paragraph (1) is to be to the extent, and on the terms, that the appointed person determines and may be amended or revoked.

Supplementary provision

- 7 Where an appointed person is a member of the staff of the Welsh Government, the functions of making a decision on a review and doing anything in connection with it conferred on the person by this Schedule are to be treated for the purposes of the Public Services (Ombudsman) Wales Act 2005 as functions of the Welsh Government.”

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