

*Status: Point in time view as at 31/05/2017.*

*Changes to legislation: Historic Environment (Wales) Act 2016, SCHEDULE 2 is up to date with all changes known to be in force on or before 22 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 2

(introduced by section 24)

### SCHEDULES 1A AND 1B TO BE INSERTED INTO THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

#### Commencement Information

- I1** Sch. 2 in force at Royal Assent for specified purposes, see s. 41(1)(e)  
**I2** Sch. 2 in force at 31.5.2017 in so far as not already in force by S.I. 2017/633, art. 5(f)

## “SCHEDULE 1A

(introduced by section 2C)

### LAPSE OF INTERIM PROTECTION

- 1 This Schedule applies where interim protection ceases to have effect in relation to a building as a result of the issue of a notice under section 2B(4)(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 9, 43 or 44C committed with respect to the building while the interim protection had effect.
- 3 Any proceedings on or arising out of an application for listed building consent with respect to the building lapse; and any such consent granted while it had effect lapses.
- 4 (1) Any listed building enforcement notice served by the local planning authority with respect to the building ceases to have effect.
- (2) Any proceedings on such a notice under sections 38 to 40 lapse.
- (3) Notwithstanding sub-paragraph (1), section 42(1) and (2) continue to have effect as respects any expenses incurred by the local planning authority, owner or occupier as mentioned in that section and with respect to any sums paid on account of such expenses.
- 5 Any temporary stop notice served by the local planning authority with respect to the building ceases to have effect.

## SCHEDULE 1B

(introduced by section 2D)

### 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 2D 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 except in such classes of case as may for the time being be prescribed by the Welsh Ministers.
- (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.

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- (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 2D as the Welsh Ministers have—
- (a) under subsections (3)(a) and (b) and (5) of that section; and
  - (b) by virtue of section 322C and 323A of the Town and Country Planning Act 1990 (costs and procedural matters: Wales), as applied to this Act by section 89 of this Act.
- (2) Where an appointed person makes a decision on a review under section 2D, the decision is to be treated as that of the Welsh Ministers.
- (3) Except as provided by sections 62 and 63, the validity of the decision is not to be questioned in any legal proceedings.
- (4) No application may be made to the High Court under section 63 on the ground that the decision 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.
- (5) Where in any enactment (including this Act) there is a reference to the Welsh Ministers in a context relating or capable of relating—
- (a) to a review under section 2D; or
  - (b) to anything done or authorised or required to be done by, to or before the Welsh Ministers in or in connection with any such review,
- then, so far as the context permits and subject to sub-paragraph (6), the reference is to be construed, in relation to a review on which a decision has been made or is to be made by an appointed person, as a reference to that person.
- (6) Sub-paragraph (5) does not permit references to the Welsh Ministers in section 2D(2)(c), (3)(c) or (6) to be construed as references to an appointed person.
- (7) Sub-paragraph (1) does not affect the generality of sub-paragraph (5).

*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 2D 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.

*Local inquiries, hearings and written representations*

- 4 (1) An appointed person may appoint an assessor to provide advice on—

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- (a) any matters arising at a local inquiry or hearing held by the appointed person in connection with a review under section 2D or in consequence of such an inquiry or hearing; or
  - (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 an 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 2D, 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 2D, other than—
- (a) the conduct of a 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 under section 2D 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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