

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. The Act brings together the principal legislation for the conservation of the historic environment in Wales. It is organised into seven Parts.
 - a. Part 1 provides an overview of the Act.
 - b. Part 2 contains the law relating to monuments of special historic interest, which may range from scatters of prehistoric tools or other archaeological sites to the standing ruins of castles, abbeys or later industrial sites. Amongst other things, Part 2 requires the Welsh Ministers to maintain the schedule of monuments that they consider to be of national importance (numbering over 4,200 at the time of writing these notes) and makes provision for the authorisation and control by the Welsh Ministers of works to scheduled monuments. Part 2 also includes powers for the acquisition and guardianship of monuments of special historic interest by the Welsh Ministers or local authorities, which provides the basis for the management and conservation of many of the monuments in the care of the Welsh Ministers (in practice, Cadw acting on their behalf).
 - c. Part 3 relates to the more than 30,000 listed buildings in Wales dating from the Middle Ages to more recent times. It requires the Welsh Ministers to list buildings that are, in their view, of special architectural or historic interest, and makes provision for the authorisation and control of works affecting listed buildings. Unlike the schedule of monuments, where not all monuments considered to be of national importance have to be on the schedule, every building considered to be of special architectural or historic interest has to be included on the list. The responsibility for the authorisation and control of works affecting listed buildings is shared between planning authorities and the Welsh Ministers, although it is planning authorities who are most heavily involved in administering the system. Part 3 also provides powers for the Welsh Ministers or planning authorities to acquire a building. The Welsh Ministers or a local authority may also undertake urgent works to preserve a building of special architectural or historic interest.
 - d. Part 4 deals with conservation areas and provides for their designation as areas of special architectural or historic interest by planning authorities and their periodic review. At the time of writing these notes, there are over 500 conservation areas in Wales. This Part also includes provisions for the control of demolition and for urgent works in conservation areas and for grants relating to the preservation or enhancement of conservation areas.
 - e. Part 5 contains supplementary provisions relating to buildings of special interest and conservation areas. They cover matters such as the exercise of functions by planning authorities, proceedings before the Welsh Ministers and the validity and correction of decisions.
 - f. Part 6 requires the Welsh Ministers to maintain and publish the register of historic parks and gardens in Wales, which at the time of writing these notes includes

*These notes refer to the Historic Environment (Wales) Act
2023 (c.3) which received Royal Assent on 14 June 2023*

nearly 400 sites, and the list of historic place names in Wales, which has almost 700,000 entries. Part 6 also requires the Welsh Ministers to maintain a historic environment record for each of the 22 local authorities in Wales, details what a historic environment record must contain and sets out the arrangements that must be made for public access to records, amongst other matters.

- g. Part 7 makes general provision relating to matters in the Act, such as service of documents, powers to require information, compensation and definitions and interpretation.
4. The main Acts brought together in this consolidation are:
- a. the [Historic Buildings and Ancient Monuments Act 1953 \(c. 49\)](#)
 - b. the [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46\)](#)
 - c. the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#)
 - d. the [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#)
5. The consolidation also restates provisions currently found in other Acts relevant to the historic environment to improve accessibility and clarity. These include:
- a. the [Local Government Act 1972 \(c. 70\)](#)
 - b. the [Town and Country Planning Act 1990 \(c. 8\)](#)
 - c. the [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#).
6. Consolidation has also provided an opportunity to incorporate relevant provisions from secondary legislation into the Act where appropriate. This course has generally been taken when the secondary legislation is well established and is not likely to require frequent amendment.
7. In addition to being supplemented by relevant secondary legislation, the primary legislation is also supplemented by technical planning advice, notably *Planning Policy Wales* (edition 11, 2021) and *Technical Advice Note 24: The Historic Environment* (2017) (“TAN 24”). Cadw also publishes a number of non-statutory, best-practice guidance documents relating to the historic environment. Among other things, TAN 24 sets out the selection criteria applied when determining whether to include a monument in the schedule of monuments (Part 2, Chapter 1) and when determining whether a building is of special architectural or historic interest for the purposes of the list of buildings (Part 3, Chapter 1). All of these advice and guidance documents make reference to the *Conservation Principles for the Sustainable Management of the Historic Environment in Wales* (“*Conservation Principles*”) published by Cadw, on behalf of the Welsh Ministers, in 2011. Together these documents set out that “conservation” means managing change carefully to protect and preserve what is significant and special about historic assets.