

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 — Monuments of special historic interest

Chapter 1 — Key terms

18. The concept of a “monument” is central to the legislation for the designation, management and protection of the archaeological heritage of Wales. Chapter 1 therefore provides fundamental definitions relating to monuments at the beginning of the Part.

Section 2 — Meaning of “monument” and “site of monument”

19. The five categories defined in section 2(1)(a) to (e) will accommodate a wide range of “monuments” in both the terrestrial and marine historic environments.
20. In paragraphs (a) and (b), “work” refers to anything constructed by or as a result of human activity. This would include prehistoric and later earthworks, such as the early medieval Offa’s Dyke.
21. Paragraph (e) provides that the site of any thing or group of things that evidences previous human activity may be considered a monument (as long as it is not already captured in paragraph (b), (c) or (d)). This could include, for example, sites without buildings or works where scatters of artefacts — perhaps prehistoric flint tools or, from more recent times, rejects from pottery kilns or other industrial processes — offer archaeological evidence of past human activity.
22. Subsection (3) removes from consideration as a monument any religious building that is currently used for religious purposes. While a place of worship being used for services could not be deemed a monument, a derelict or ruined place of worship could.
23. Subsection (3) would not prevent artefacts that have been brought into a place of worship for protection and display from being classed as monuments if they fall within the definition in subsection (1). These artefacts could be crosses, inscribed stones and other similar artefacts. Even if an artefact of this kind is fixed to a floor or wall of a church, it may be recognised as a monument if it could be removed with minimal disruption to the building.
24. Subsection (5) explains that the “site of a monument” includes not only the land in, on or under which the monument is situated, but any other land that is essential for the monument’s support and preservation. Whether other land is essential for this purpose would be determined either by the Welsh Ministers or a local authority, depending on which of the two parties was exercising a function under this Part in relation to the monument. Such additional land might, for instance, provide access to the monument necessary for ongoing management and conservation.
25. Subsection (8) establishes that in this section “remains” includes any trace or sign of the previous existence of the thing in question. Crop marks discovered during an aerial survey or information obtained from 3-D laser scanning (lidar), ground-penetrating

*These notes refer to the Historic Environment (Wales) Act
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radar or other scientific techniques for the survey of archaeological sites often reveal the existence of otherwise undetected monuments.