

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 — Monuments of special historic interest

Chapter 2 — Schedule of monuments of national importance

Section 3 — Duty to maintain and publish schedule of monuments

29. *Section 3(1)* provides that the Welsh Ministers must maintain a schedule of monuments and must publish the up-to-date schedule. The Welsh Ministers publish the up-to-date schedule on Cof Cymru.
30. The Welsh Ministers use selection criteria contained in Annex A of TAN 24 to assess whether a monument is of national importance and determine if scheduling is appropriate. These criteria are not, however, definitive; rather they are indicators that contribute to a wider judgement based on the individual circumstances of a case. For example, scheduling may not be the best approach for a site soon to be lost to coastal erosion; full excavation is likely to be the only way to record the historic asset's importance. So, although section 3 requires the Welsh Ministers to maintain a schedule of monuments that they consider to be of national importance, the effect of subsection (1) is that they are not required to include all monuments that meet the criteria. It's also worth noting that, where the Welsh Ministers do schedule a monument, they are able to schedule part of the monument, without scheduling the monument in its entirety. And section 2(6)(c) of the Act provides that references in the Act to a monument include references to any part of it.
31. Subsection (2) requires every entry in the schedule to include a map maintained by the Welsh Ministers identifying the monument's area. A definitive map will be included in the entry provided when the Welsh Ministers fulfil the notification requirements in section 4(3). The entry for every monument on Cof Cymru also provides access to a printable map.
32. Subsection (3) provides that, in addition to scheduling additional monuments under subsection (1), the Welsh Ministers may remove a monument from the schedule — “descheduling” — or amend an existing entry. The latter could involve, for example, increasing or decreasing the scheduled area of a monument. The Welsh Ministers may also make any other changes that may be needed to an entry in the schedule. For example, if archaeological or historical investigations were to provide new information about a monument, the entry in the schedule could be amended to reflect this. Descheduling will only be considered in exceptional cases. Reasons for descheduling might include severe loss to a monument or its site, perhaps through coastal erosion.
33. Subsection (5) establishes that an entry in the schedule recording the inclusion of a monument is a local land charge. A local land charge will alert a purchaser to the restrictions imposed on the use of the land by the scheduling of the monument.