

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 — Monuments of special historic interest

Chapter 3 — Control of works affecting scheduled monuments

Section 12 — Authorisation of classes of works

Schedule 3 — Authorisation for classes of works

56. [Section 12\(1\)](#) authorises works to a scheduled monument if the works fall within a description of a class of works in the table in [Schedule 3](#).
57. [Schedule 3](#) restates, with modifications, classes of consent from the Ancient Monuments (Class Consents) Order 1994, [SI 1994/1381](#). The incorporation of these well-established provisions from secondary legislation brings together the relevant legislation about the authorisation of works. Regulation-making powers in paragraph 1 of [Schedule 3](#), however, give the Welsh Ministers flexibility to amend the Schedule.
58. [Schedule 3](#) sets out eight classes of works that are authorised by section 12(1). These works are not normally damaging and therefore can proceed without the need for the detailed consideration of the scheduled monument consent process.
59. Class 1 comprises agricultural, horticultural and forestry works of the same kind as works carried out lawfully on the same spot within the previous six years. By permitting the same activity to occur in the same place, any further disruption to the scheduled monument from the ongoing works will be minimised. For example, where a scheduled site has been lawfully ploughed within the previous six years, ploughing may continue provided it goes no deeper than it did during that six-year period. The works specified in paragraphs (a) to (f) of the Class 1 entry have all been excluded from authorisation because of the threats that they would pose to undisturbed archaeology or the standing remains of a scheduled monument.
60. If agricultural, horticultural or forestry works have not taken place on a scheduled monument for more than six years, the possibility of authorisation under section 12(1) lapses and it cannot be revived. Thereafter such works would require scheduled monument consent under section 13.
61. Class 5 has been included to provide authorisation should the Historic Buildings and Monuments Commission for England ([Historic England](#)) be undertaking works on Offa's Dyke or some other cross-border scheduled monument and inadvertently or by prior agreement carry the works across the border into Wales.
62. Class 6 permits works of archaeological evaluation to be carried out by or on behalf of someone who has applied for scheduled monument consent. Such works will be limited, for instance test pits or trial trenches, and be carried out to assess the archaeological resource and potential of the monument in order to inform the determination of the

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

scheduled monument consent. These works must be undertaken in accordance with a written specification approved by Cadw.