

# HISTORIC ENVIRONMENT (WALES) ACT 2023

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2 — Monuments of special historic interest**

#### ***Chapter 5 — Enforcement of controls relating to scheduled monuments***

#### ***Section 38 — Effect of granting scheduled monument consent on enforcement notice***

141. **Section 38** provides for a situation where, after an enforcement notice is issued, scheduled monument consent is granted to authorise:
- a. works to which the notice relates that had been carried out in breach of section 11,  
or
  - b. works that had breached a condition of a previous scheduled monument consent.
142. Subsection (2) provides that steps specified in the notice that are inconsistent with the new consent cease to have effect. However, subsection (3) sets out that a person remains liable for any earlier offence arising from a failure to comply with an enforcement notice, even though part or all of the notice subsequently ceases to have effect under this section. Failing to comply with an enforcement notice (section 41) is a separate offence from carrying out unauthorised works (section 30) and proceedings for the offences may be pursued independently.