

# **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 39 — Appeal against enforcement notice*

143. *Section 39* permits anyone upon whom a copy of an enforcement notice has been served or with an interest in the monument or land to which the notice relates to appeal against the notice to a magistrates' court.
144. Subsection (2) lists the grounds for an appeal and subsection (3) requires that it is made before the date specified in the notice as the date on which the notice takes effect. Subsection (2)(b) provides for an appeal on the basis that the works did not constitute a breach of section 11 or of a condition of a scheduled monument consent. Perhaps this might be because the works occurred outside the area of the scheduled monument or they did, in fact, comply with an authorisation provided by section 12 or 13 and any attached conditions.
145. Subsection (6) provides that the court may uphold a notice in spite of a failure to serve the notice on a person who was required to be served, if it is satisfied that the person has not been significantly disadvantaged by the failure.