

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 — Buildings of special architectural or historic interest

Chapter 2 — Control of works affecting listed buildings

Section 88 — Requirement for works to be authorised

312. *Section 88* provides that a person must not carry out certain works, or cause certain works to be carried out, unless they have been authorised by the grant of listed building consent under section 89.
313. Under subsection (2), the works requiring authorisation are:
- a. works for the alteration or extension of a listed building in any way that would affect its character as a building of special architectural or historic interest
 - b. works for the demolition of a listed building.
314. Therefore, works for appropriate routine maintenance and like-for-like repair that do not affect the character of a listed building do not require authorisation by listed building consent.
315. Subsection (3) excludes four categories of works from the requirement for authorisation:
- a. works in relation to a listed building that is also a scheduled monument

At the time of writing these notes, there are over 500 listed buildings in Wales that are also scheduled monuments. In such cases, the designation as a scheduled monument takes precedence and, in practice, scheduled monument consent under section 13 will be required for almost any works. It is no longer normal Cadw practice to schedule and list the same asset.
 - b. works in relation to an exempt religious building as defined in section 156
 - c. works for the demolition of all or part of a building closed for regular public worship in accordance with Part 6 of the Mission and Pastoral Measure 2011 (No. 3)

The 2011 Measure only applies to the Church of England so this provision of the Act will only affect the small number of religious buildings in Wales near the border with England that remain under the jurisdiction of that body.
 - d. urgently necessary works carried out by or on behalf of the Crown in the interests of safety or health or for the preservation of the building under the circumstances set out under section 117(4)(a)–(d).