

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 107 — Modification and revocation of consent

Schedule 8 — Procedure for orders modifying or revoking listed building consent

368. [Section 107](#) provides that a planning authority or the Welsh Ministers may, by order, modify or revoke to any extent a listed building consent granted on application or appeal under this Part of the Act. Such an order may be made at any time before the conclusion of the works, but it will have no effect on the consent for works already completed.
369. [Schedule 8](#) sets out procedures that must be followed before an order made by a planning authority (Part 1), or an order made by the Welsh Ministers (Part 2), takes effect.
370. [Paragraph 1](#) of Schedule 8 provides for two mechanisms for an order made by a planning authority to take effect. The first requires the order to be confirmed by the Welsh Ministers under [paragraph 2](#) before it takes effect. The second, under [paragraph 3](#), does not require the order to be confirmed by the Welsh Ministers if certain conditions are met.
371. [Paragraph 2\(1\)](#) requires a planning authority that has submitted an order under [section 107](#) to the Welsh Ministers for confirmation to give notice of the submission to every owner and occupier of the listed building and any other person whom it thinks will be affected by the order.
372. The recipients of the notice must be given at least 28 days to make a written request to the Welsh Ministers for a hearing before an appointed person, who will usually be an inspector from Planning and Environment Decisions Wales. The period of at least 28 days must begin with the day after the day the notice is served ([paragraph 2\(2\)](#) and [\(4\)](#)).
373. [Paragraph 3](#) sets out the procedure for an order made by a planning authority to take effect without being confirmed by the Welsh Ministers.
374. Under [paragraph 3\(1\)](#), this procedure applies only if the following have notified the authority that they have no objection to the order:
- a. every owner and occupier of the listed building, and
 - b. every other person the planning authority thinks will be affected by the order.
375. This procedure is only likely to be used if the modification or revocation of consent is being done with the understanding and agreement of the interested parties. If they

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

accept the order without objection, they will have no future claim to compensation under section 108.

376. If no objections are raised by the interested parties, subparagraph (2) requires the planning authority to publish notice of the order.
377. The notice must give persons affected by the order at least 28 days to notify the Welsh Ministers that they want the order to be submitted to the Welsh Ministers for confirmation under the procedure in paragraph 2. The period of at least 28 days must begin with the day after the day the notice is served (paragraph 3(3)(a) and (5)). This will permit a person who only became aware of the order when the notice was published by the authority to call for its confirmation by the Welsh Ministers. Similarly, following receipt of the notice, an individual who had earlier expressed no objection to the planning authority's order may decide instead to call for the order to be submitted for confirmation by the Welsh Ministers. If any person calls for the order to be submitted for confirmation, it cannot take effect unless confirmed in accordance with paragraph 2.
378. [Paragraph 3\(4\)](#) provides that if no affected person notifies the Welsh Ministers during an allotted period of at least 28 days that they want the order to be submitted to the Welsh Ministers for confirmation, and the Welsh Ministers do not, by the end of a succeeding period of at least 14 days, direct that the order must be submitted to them for confirmation, the order takes effect at the end of that period.
379. If the Welsh Ministers decide that a listed building consent should be modified or revoked, paragraph 4 establishes the procedure for making an order. Before making an order, the Welsh Ministers must consult the planning authority in whose area the listed building is situated (paragraph 4(1)).
380. The Welsh Ministers must also serve notice of the proposed order on every owner and occupier and any other person whom they believe will be affected. The notice must allow at least 28 days for a person on whom the notice is served to request a hearing before a person appointed by the Welsh Ministers, who will usually be an inspector from Planning and Environment Decisions Wales. The period of at least 28 days must begin with the day after the day the notice is served (paragraph 4(2)—(3) and (5)).