

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 109 — Purchase notice where consent is refused, granted subject to conditions, modified or revoked

387. Listed building controls place restrictions on what an owner can do with a building and in rare cases an owner may find that there is no viable use for a listed building. Left with a building of little value, under section 109 the owner may be able to serve a purchase notice that requires a planning authority to purchase the owner’s interest in the listed building and associated land if specific conditions are met.
388. A listed building owner may serve a purchase notice on the planning authority for the area in which the building is situated if consent:
- a. is refused,
 - b. granted subject to conditions, or
 - c. modified or revoked by order under section 107,
- and certain other conditions set out in subsections (4) and (5) are met.
389. The subsection (4) conditions are met if:
- a. the listed building and its associated land are unusable in their existing state;
 - b. in a case where conditions have been attached to a listed building consent, either as granted or after modification, the building and land cannot be made usable by carrying out the works in accordance with the conditions; and
 - c. the carrying out of any other works for which listed building consent has been granted (or for which a planning authority or the Welsh Ministers have undertaken to grant consent) also cannot make the building or land usable.
390. Subsection (6) defines “usable” as meaning “capable of reasonably beneficial use”.
391. Associated land must be in the same ownership as the listed building and must be treated as inseparable from the building. It would not be possible to serve a purchase notice requiring a planning authority to purchase curtilage buildings without the principal listed building.