

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 112 — Action following service of purchase notice

Schedule 9 — Action following service of purchase notice

392. [Section 112](#) introduces Schedule 9 which makes provision for the actions to be taken by a planning authority and the Welsh Ministers after the service of a purchase notice.
393. [Paragraph 1](#) of Schedule 9 requires that within three months of the day that the purchase notice was served the planning authority must respond to the person with either an acceptance notice or a rejection notice.
394. Subparagraph (2) explains that an acceptance notice will state either that the planning authority is willing to comply with the purchase notice or that another local authority or statutory undertaker identified in the notice has agreed to comply. A statutory undertaker is defined in paragraph 7 of the Schedule and section 210.
395. Subparagraphs (5) and (7) expand on the effect of the service of an acceptance notice. Subparagraph (5) treats the authority or undertaker as being authorised to carry out the compulsory acquisition of the interest in the listed building and associated land under section 137, and as having initiated the compulsory purchase by serving a “notice to treat” on the owner. This means that the purchase proceeds in accordance with the [Compulsory Purchase Act 1965 \(c. 56\)](#) and compensation is determined under the [Land Compensation Act 1961 \(c. 33\)](#) (“the 1961 Act”).
396. A rejection notice, on the other hand, sets out the reasons why the planning authority will not comply with the purchase notice, explains that no other body has been found willing to comply with it and states that copies of the purchase notice and rejection notice have been forwarded to the Welsh Ministers (subparagraph (3)).
397. [Paragraphs 2 to 5](#) of the Schedule concern the Welsh Ministers’ actions after receiving copies of a purchase notice and the rejection notice relating to it.
398. [Paragraph 2\(2\)](#) states that the Welsh Ministers must, subject to various provisions in subparagraphs (3) to (7), confirm a purchase notice if they are satisfied that:
- a. the conditions in section 109 are met; and
 - b. that the notice relates to all of the land adjoining or adjacent to the listed building that they consider is required for preserving the building or its amenities, providing access to it, or its proper control or management.

399. This second condition will help to safeguard the interests of an acquiring authority and increase the likelihood that it will be able to give the listed building and associated land a viable future.
400. [Paragraph 4](#) explains the effect of the Welsh Ministers confirming a purchase notice. Where the Welsh Ministers do so, the specified authority — either the authority upon whom the notice was served or the authority or statutory undertaker substituted by the Welsh Minister under [paragraph 2\(7\)](#) — is effectively placed in the same situation as if it had served an acceptance notice. That authority is treated as authorised to acquire the interest of the person who served the notice by compulsory purchase as explained in [paragraph 397](#) above.
401. If, on the contrary, the Welsh Ministers are not satisfied that the section 109 conditions and other requirements specified in [paragraph 2\(2\)\(b\)](#) are fulfilled, they must, under [paragraph 2\(8\)](#), refuse to confirm a purchase notice.
402. [Paragraph 2\(3\)](#) provides that if the Welsh Ministers are satisfied that the conditions in section 109 are only met in relation to part of the land specified in the purchase notice, then the notice must only be confirmed in relation to that part. This would, for instance, enable the Welsh Ministers to exclude land from the scope of the purchase notice and subsequent compulsory acquisition (under [paragraph 4\(1\)](#)) which could practically be treated as a separate holding from the listed building.
403. Instead of confirming a purchase notice, [paragraph 2\(4\)](#) allows the Welsh Ministers to grant or reinstate a listed building consent or vary or remove conditions as required to permit works that would enable the listed building and associated land to be made usable.
404. Similarly, instead of confirming a purchase notice, [paragraph 2\(5\)–\(6\)](#) provides for a situation in which the Welsh Ministers may direct that, should another application for listed building consent or planning permission be made that would render the land, or any part of it, usable within a reasonable time, that application must be granted.
405. [Paragraph 2\(7\)](#) provides that, in confirming a purchase notice, if the Welsh Ministers believe that another local authority or statutory undertaker would be better able to secure the future of part or all of the land to which a purchase notice relates, they may modify the notice by substituting that authority or undertaker for the planning authority named in the notice.
406. [Paragraph 3](#) requires the Welsh Ministers to give notice of the action that they propose to take on a purchase notice under [paragraph 2](#) to the person who served the purchase notice and any authority or statutory undertaker involved with the matter. They must also give them the opportunity to appear before and be heard by an appointed person. The appointed person will usually be an inspector from Planning and Environment Decisions Wales.
407. [Paragraph 4](#) details the effect of the Welsh Ministers’ action with regard to a purchase notice received under [paragraph 1\(6\)](#).
408. [Paragraph 4\(3\)](#) provides that if the Welsh Ministers do not:
- a. confirm a purchase notice,
 - b. refuse to confirm a notice, or
 - c. take any of the other actions available to them under [paragraph 2](#),
- within a relevant period (as defined in [paragraph 4\(5\)](#) and [\(6\)](#)), the purchase notice is to be treated as if it was confirmed by them at the end of that period. The authority upon which the purchase notice was served is effectively placed in the same situation as if it has served an acceptance notice; it is treated as authorised to acquire the interest of the

*These notes refer to the Historic Environment (Wales) Act
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person who served the notice by compulsory purchase under section 137 and as having served a “notice to treat” on the person.