

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 — Buildings of special architectural or historic interest

Chapter 4 — Enforcement of controls relating to listed buildings

Section 133 — Offence of failing to comply with enforcement notice

499. **Section 133** establishes that if, after the end of the period prescribed in an enforcement notice, a required step has not been taken, an owner of the listed building to which the notice relates will be guilty of an offence. This would be an offence in addition to the offence of carrying out the unauthorised works under section 117.
500. Subsection (2) provides that an offence under this section may be charged by reference to a day or a longer period, and that a person may be convicted of more than one offence in relation to the same enforcement notice by reference to different periods.
501. Subsection (3) sets out the possible defences available under this section. It is a defence for a person to prove that:
- a. the person did everything that could be expected to be done to secure that the required steps were taken, or
 - b. the person was not served with a copy of the notice and so was unaware of its existence.
502. Subsection (4) provides that the penalty for the offence of failing to comply with an enforcement notice, whether on summary conviction or conviction by indictment, is an unlimited fine.
503. Since deliberate damage to a listed building may be prompted by the prospect of financial gain, subsection (5) requires the court to have regard to any financial benefit the person convicted may have gained or appears likely to gain as a result of the offence, when determining the amount of any fine to be imposed.