

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 118 — Offence of intentionally damaging listed building

451. [Section 118\(1\)](#) provides that a person commits an offence, if, with the intention of damaging a listed building, such a person does anything, or permits anything to be done that causes or is likely to result in damage to that building, and were it not for this subsection, the person would have been entitled to do or permit such action. A person entitled to do or permit an action to a listed building in this case would include an owner, occupier or someone employed by them.
452. The manner in which the offence under this section has been limited to persons who are entitled to do or permit works to a listed building, distinguishes it from the more broadly framed offence under section 1(1) of the [Criminal Damage Act 1971 \(c. 48\)](#) (“the 1971 Act”). The offence in the 1971 Act applies to any person who “without lawful excuse destroys or damages any property belonging to another”. Another important difference between the two offences is that intention must be proved for an offence under this section, while recklessness as to whether damage is caused is sufficient for the offence under section 1 of the 1971 Act.
453. Subsection (3) provides that a person found guilty of an offence under subsection (1) will be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
454. If, on being convicted of an offence under this section, the person also fails to take reasonable steps that are necessary to prevent damage or any further damage from taking place to the building, the person is liable on summary conviction to further fines for each day on which the failure continues (subsections (4) and (5)).
455. [Section 118](#) does not apply to a building subject to interim protection or temporary listing — see sections 79(2) and 83(4).