

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 — Buildings of special architectural or historic interest

Chapter 6 — General

Section 156 — Exempt religious buildings

579. **Section 156** enables the Welsh Ministers to make regulations to recognise a religious building used for religious purposes as an “exempt religious building”. The effect of recognising an “exempt religious building” is that the following provisions of Part 3 of this Act do not apply in relation to the building:
- a. sections 83 and 84, which enable the temporary listing of a building
 - b. section 88, which requires works affecting a listed building to be authorised
 - c. section 118, which makes it an offence to intentionally damage a listed building
 - d. section 137, which enables a planning authority or the Welsh Ministers to compulsorily acquire a listed building in need of repair
 - e. section 144, which enables the local authority or the Welsh Ministers to carry out urgent works necessary for the preservation of a listed building.
580. At the time of writing these notes, approximately 2,000 religious buildings have been listed in Wales under the provisions set out in section 76, although not all of these are covered by the exemption. However, where they are covered, the provisions relating to religious exemption reflect the particular needs of listed buildings in use as places of worship, but recognise the need to maintain an appropriate level of protection which is at least equivalent to that given to non-religious buildings.
581. Subsection (3)(a) provides that regulations under this section may recognise particular buildings or buildings of a description specified in the regulations (and a description of buildings may be specified by reference to a religious faith or denomination, a use made of the buildings, or any other circumstance).
582. Where religious denominations and faith groups in Wales are able to demonstrate that they have established, or will establish, sufficiently robust and transparent conservation processes for managing change affecting listed religious buildings, it may be possible to identify particular buildings used by those denominations and faith groups for religious purposes as being exempt. Any denomination or faith group may make representations to the Welsh Ministers if they wish to be considered for such an exemption.
583. At the time of writing these notes, the following denominations and faith groups have been able to demonstrate this to the satisfaction of the Welsh Ministers:
- a. the Baptist Unions of Great Britain and Wales

- b. the Church in Wales
 - c. the Church of England
 - d. the Methodist Church
 - e. the Roman Catholic Church.
584. Subsection (3)(b) provides that the regulations may designate as exempt all or part of a religious building (so the exemption may apply to some parts of a building but not to others).
585. Subsection (3)(c) provides that the regulations may specify that only particular types of works are exempt from the requirement for listed building consent. The regulations may specify the nature of the works themselves or specify works by reference to the person by whom the works are carried out. For example, the regulations could stipulate that any work undertaken by third parties might not qualify for the exemption. In this way a service provider erecting a telecommunications mast on a church tower might need authorisation from the relevant planning authority by listed building consent. Any changes that fall outside the scope of the exemption would need to be authorised through the usual system of listed building consent (section 89).
586. [Section 156\(2\)](#) makes clear that, for the purposes of the exemption from requiring listed building consent, the fact that a building is out of use while works are being carried out (e.g. during major conservation works) does not prevent the building being regarded as “used for religious purposes” provided that it would be used for those purposes if it were not for those works.
587. Subsection (4)(a) provides that references in this section to a religious building include any artificial object or structure that is fixed to the building, or that is within the curtilage of the building. This means that some structures that are not listed in their own right might come into the scope of the religious exemption provided that they are in the curtilage of the listed building. These might include lychgates, boundary walls, memorials, vestries and school rooms. However, if there is a scheduled monument within the curtilage of an exempt religious building, any works to that monument will require scheduled monument consent.
588. Under subsection (4)(b), buildings that are wholly or mainly used as residences by ministers of religion are not considered to be religious buildings for the purposes of this section. Works to these buildings are therefore not covered by the exemption. Where a residential building is attached to a listed place of worship (for example, a presbytery attached to a Catholic church, or a minister’s house attached to a chapel), works to the residential building will need listed building consent from the local planning authority.
589. The Welsh Ministers have published non-statutory, best-practice guidance, which is kept under review, to support the management of listed religious buildings. The guidance at the time of writing these notes, *Managing Change to Listed Places of Worship in Wales: Ecclesiastical Exemption* (2018), sets out the guiding principles to consider when planning changes to listed religious buildings covered by the regulations provided for by this Chapter. It also sets out a code of practice for denominational consent procedures, which explains how those principles should be included in the control and decision-making process.