

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 — Conservation Areas

Section 161 — Requirement for demolition to be authorised

Schedule 11 — Effect of section 161 ceasing to apply to building

609. **Section 161** provides that a person must not carry out works for the demolition of a building in a conservation area (or cause such works) unless they have been authorised by the grant of conservation area consent under section 162.
610. **Section 161(2)** excludes various categories of building from the requirement to obtain conservation area consent. The excluded categories are:
- a. buildings which are scheduled monuments — but demolishing a scheduled monument requires scheduled monument consent (section 11)
 - b. listed buildings — but demolishing a listed building requires listed building consent (section 88)
 - c. buildings of descriptions specified in regulations made by the Welsh Ministers
 - d. buildings of descriptions specified in directions given to an individual planning authority by the Welsh Ministers.
611. The buildings described by the Welsh Ministers in subsection (2)(c) might, for instance, be of small-scale, such as minor outbuildings or sheds, so their demolition would be unlikely to have a substantial impact on the character of the conservation area. Alternatively, the Welsh Ministers might identify a range of buildings whose demolition is already authorised or required under other enactments or procedures. These are only examples and other buildings might be described by the Welsh Ministers.
612. Subsection (3) permits the Welsh Ministers to direct a planning authority that conservation area consent is needed for a building in its area even though the building falls within a description of buildings that were excluded from needing conservation area consent by regulations made under subsection (2)(c). Such a direction might be used if a conservation area contained a number of buildings that made an important contribution to its character that would otherwise be excepted from conservation area consent by regulations — for instance, small corrugated-iron coal bunkers in an industrial community.
613. Subsection (4) excludes certain emergency works carried out by or on behalf of the Crown from the requirement to obtain conservation area consent. The works that are excluded are works carried out by or on behalf of the Crown in the circumstances set out in paragraphs (a) to (d) of section 117(4).

614. [Section 161\(5\)](#) introduces Schedule 11, which deals with what happens if conservation consent used to be required to demolish a building, but is no longer needed. That could happen if, for instance, the building is taken out of the scope of conservation area consent by regulations made under subsection (2)(c) or by a direction made under subsection (2)(d). Both in its form and effect, Schedule 11 closely mirrors Schedule 7 (end of interim protection or temporary listing for buildings).