

# HISTORIC ENVIRONMENT (WALES) ACT 2023

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5 — Supplementary provision about buildings of special interest and conservation areas**

##### ***Section 184 — Appeal to High Court against decision relating to enforcement notice***

673. **Section 184** requires rules of court to provide a mechanism for interested persons (see subsection (2)(b)) to challenge decisions made by the Welsh Ministers on appeals relating to enforcement notices. The rules must determine whether interested persons may appeal to the High Court (in practice, the appeals would be dealt with by the Planning Court, a specialist court within the High Court, and the rules are contained in Part 54 of the Civil Procedure Rules and Practice Direction 54D, which are made by the Civil Procedure Rule Committee), or whether the Welsh Ministers may be required to state and sign a case for the opinion of the High Court (which, in practice, would require the Welsh Ministers to ask the Planning Court for its judgment on whether they decided the appeal properly, and the rules are contained in Practice Direction 52E).
674. **Section 184** does not apply to challenges to enforcement appeal decisions under section 128(3)(a) or (b) (granting consent or removing conditions of consents). These decisions can only be challenged under section 183 (statutory review).
675. Subsection (8) provides that an appeal to the High Court under this section may only be brought with the permission of the High Court. If the Court does not consider that there is a strong case, it can refuse permission (and appeal applications under this section may only be made on points of law, and not merely because a person disagrees with a decision). Practice Direction 54D currently provides that an application for permission must be made within 28 days of the decision being challenged, although the High Court can extend this period if it considers there is good reason to do so.
676. Practice Direction 54D also provides that, where the Court determines that the original decision is erroneous on a point of law, the Court cannot set the decision aside and can only require the Welsh Ministers or appointed person to reconsider the case.