

HISTORIC ENVIRONMENT (WALES) ACT 2023

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 — General

Section 211 — Consequential and transitional provision etc.

Schedule 13 — Minor and consequential amendments and repeals

Schedule 14 — Transitional and saving provisions

724. [Section 211](#) introduces Schedules 13 and 14 which together make amendments and transitional provisions that will accommodate the legal changes occasioned by the enactment of the Act.
725. Subsections (3) and (4) give the Welsh Ministers powers to make further incidental, consequential, transitional, transitory or saving provisions by regulations.
726. [Schedule 13](#) contains various amendments that are necessary in consequence of consolidating the legislation in the Act. Some changes make provision for the appropriate citation of the Act in existing legislation, while many others are needed to extract Wales from the historic environment legislation that will remain in effect in England and Scotland, particularly the 1979 Act and 1990 Listed Buildings Act.
727. [Paragraphs 35 to 37](#) of Schedule 13 make the changes that are necessary to revoke Part II (archaeological areas) of the 1979 Act in Wales. Part II has never been used in Wales, because in practice planning policy provides greater protection to the archaeological heritage. This gives effect to recommendation 13.11 of the Law Commission’s report, *Planning Law in Wales* (Law Com No 383, 2018).
728. [Paragraph 65](#) of Schedule 13 inserts a new section 79A into the [Building Act 1984 \(c. 55\)](#) (“the 1984 Act”). Derived from section 56 of the 1990 Listed Buildings Act, it requires a local authority in Wales to consider taking certain steps in relation to listed buildings and certain other buildings under the Act prior to obtaining an order under section 77(1)(a) of the 1984 Act (making a dangerous building order) or serving a notice under section 79(1) of that Act (serving a notice with regard to a ruinous or dilapidated building detrimental to amenity).
729. If the building is listed and the local authority is the planning authority for the area in which the building is situated, it should consider whether it should exercise its powers under sections 137 and 138 of the Act to serve a repairs notice and initiate the process for compulsory acquisition.
730. [Section 79A\(1\)\(b\)](#) further provides that, in any case involving a listed building, a local authority should consider undertaking urgent preservation works under section 144 of the Act.
731. [Section 79A\(2\)](#) further provides that, if a building is subject to interim protection or temporary listing under the Act, or if the Welsh Ministers have given a direction in

*These notes refer to the Historic Environment (Wales) Act
2023 (c.3) which received Royal Assent on 14 June 2023*

relation to a building in a conservation area on the ground that it is important for maintaining the character or appearance of that area, the local authority should consider undertaking urgent works for the preservation of the building under section 144 of the Act.

732. [Paragraph 90](#) inserts a new section 314A into the 1990 Planning Act. Derived from section 66 of the 1990 Listed Buildings Act, it provides that, if considering whether to grant planning permission for development that affects a listed building or its setting, a local planning authority in Wales or the Welsh Ministers must have special regard to the desirability of preserving the listed building, its setting and any features of special architectural or historic interest.
733. [Section 314A\(4\)](#) of the 1990 Planning Act specifies that in this section “listed building” refers to buildings situated in both Wales and England. Consequently, in regions of Wales along the border with England, a Welsh planning authority or the Welsh Ministers might have to give special regard to the desirability of preserving listed buildings and their settings on both sides of the border when considering whether to grant planning permission. A complementary amendment to the 1990 Listed Buildings Act is made by [paragraph 136](#). This will place a corresponding duty on English local planning authorities and the Secretary of State with regard to listed buildings in Wales.
734. [Paragraph 127](#) amends section 49 of the 1990 Listed Buildings Act so that its provisions for compensation on the compulsory acquisition of listed buildings will continue to apply to England and Wales. The other provisions of the 1990 Listed Buildings Act cease to apply to Wales by virtue of [paragraphs 93 to 160](#).
735. [Paragraph 192](#) completely repeals the Historic Environment (Wales) Act 2016. The bulk of the provisions have been restated in the Act apart from those for the Advisory Panel for the Historic Environment, which have never been brought into effect.
736. [Schedule 14](#) contains various provisions necessary for the smooth and uninterrupted transition from earlier enactments to the Act. While Part 1 contains general provisions, Part 2 makes provision for matters relating to monuments under guardianship, and Part 3 deals with a number of specific cases in which the Act makes changes to the previous law.