



Historic Environment (Wales) Act 2023

2023 asc 3

PART 2

MONUMENTS OF SPECIAL HISTORIC INTEREST

CHAPTER 5

ENFORCEMENT OF CONTROLS RELATING TO SCHEDULED MONUMENTS

Temporary stop notices

31 Power of Welsh Ministers to issue temporary stop notice

- (1) The Welsh Ministers may issue a temporary stop notice if they consider—
 - (a) that works have been or are being carried out in relation to a scheduled monument which involve a breach of section 11 (requirement for works to be authorised) or of a condition subject to which scheduled monument consent has been granted, and
 - (b) that the works (or any of them) ought to be stopped immediately, having regard to the effect of the works on the monument as one of national importance.
- (2) A temporary stop notice must—
 - (a) specify the works to which it relates,
 - (b) prohibit the carrying out of the works (or any of them specified in the notice),
 - (c) set out the Welsh Ministers' reasons for issuing the notice, and
 - (d) state the effect of section 33 (offence of breaching temporary stop notice).
- (3) The Welsh Ministers must display a copy of a temporary stop notice on the monument or land to which it relates, and the copy must specify the date on which it is first displayed.
- (4) But if—

- (a) it is not reasonably practicable to display a copy of the notice on the monument or land, or
 - (b) the Welsh Ministers consider that displaying a copy of the notice on the monument or land might damage the monument,
- the Welsh Ministers may instead display a copy in a prominent place as near to the monument or land as is reasonably practicable.

- (5) The Welsh Ministers may serve a copy of the notice on any person they consider—
- (a) to be carrying out the works that the notice prohibits or causing or permitting them to be carried out,
 - (b) to be an occupier of the monument or land to which the notice relates, or
 - (c) to have an interest in the monument or land.

32 Duration etc. of temporary stop notice

- (1) A temporary stop notice takes effect when a copy of it is first displayed in accordance with section 31.
- (2) A temporary stop notice ceases to have effect—
- (a) at the end of 28 days beginning with the day the copy of it is first displayed in accordance with section 31, or
 - (b) if it specifies a shorter period beginning with that day, at the end of that period.
- (3) But if the Welsh Ministers withdraw the notice before the end of the period for which it would otherwise have effect, the notice ceases to have effect when it is withdrawn.
- (4) The Welsh Ministers may not issue a second or subsequent temporary stop notice in relation to the same works unless they have, since issuing the previous notice, taken other enforcement action in relation to the breach referred to in section 31(1)(a).
- (5) In subsection (4) the reference to taking other enforcement action is a reference to—
- (a) issuing an enforcement notice under section 35, or
 - (b) obtaining an injunction under section 42.

33 Offence of breaching temporary stop notice

- (1) A person commits an offence if, at any time when a temporary stop notice has effect, the person carries out works prohibited by the notice or causes or permits such works to be carried out.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same temporary stop notice by reference to different periods.
- (3) In proceedings against a person for an offence under this section, it is a defence for the person to prove that the person did not know, and could not reasonably have been expected to know, of the existence of the temporary stop notice.
- (4) In proceedings for an offence under this section, it is a defence to prove that—
- (a) the works were urgently necessary in the interests of safety or health,
 - (b) the works carried out were limited to the minimum measures immediately necessary, and

- (c) notice in writing justifying in detail the carrying out of the works was given to the Welsh Ministers as soon as reasonably practicable.
- (5) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.
- (6) In determining the amount of the fine, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

34 Compensation for loss or damage caused by temporary stop notice

- (1) This section applies where—
 - (a) the works specified in a temporary stop notice do not, at the time the notice takes effect, involve a breach of section 11 (requirement for works to be authorised) or of a condition subject to which scheduled monument consent has been granted, or
 - (b) the Welsh Ministers withdraw a temporary stop notice after it has taken effect.
- (2) This section does not apply by virtue of subsection (1)(b) where—
 - (a) scheduled monument consent is granted for the works specified in the temporary stop notice after the notice has taken effect, and
 - (b) the Welsh Ministers withdraw the notice after the grant of that consent.
- (3) Any person who has an interest in the monument or land to which the notice relates at the time the notice takes effect is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any loss or damage suffered by the person that is directly attributable to the effect of the notice.
- (4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.
- (5) No compensation is payable under this section for loss or damage that the claimant could have avoided by—
 - (a) providing information that the claimant was required to provide by an information notice served by the Welsh Ministers under section 197, or
 - (b) co-operating with the Welsh Ministers in any other way when responding to such a notice.
- (6) A claim for compensation under this section must be made in writing within 6 months beginning—
 - (a) in a case falling within subsection (1)(a) but not within subsection (1)(b), with the day the temporary stop notice takes effect;
 - (b) in a case falling within subsection (1)(b), with the day the notice is withdrawn.