



# Historic Environment (Wales) Act 2023

2023 asc 3

## PART 2

### MONUMENTS OF SPECIAL HISTORIC INTEREST

#### CHAPTER 7

##### GENERAL

##### *Powers of entry*

#### **65 Powers of entry for inspection of scheduled monuments etc.**

- (1) An authorised person may enter any land to inspect a scheduled monument in, on or under the land to assess its condition and assess—
  - (a) whether any works affecting the monument are being carried out in breach of section 11 (requirement for works to be authorised), or
  - (b) whether it has been or is likely to be damaged (by such works or otherwise).
- (2) An authorised person may enter any land to inspect a scheduled monument in, on or under the land in connection with—
  - (a) an application for scheduled monument consent for works affecting that monument,
  - (b) a proposal to modify or revoke a scheduled monument consent for any such works, or
  - (c) a proposal to make an order under section 27 (termination of scheduled monument partnership agreement or provision of agreement).
- (3) An authorised person may enter any land to assess whether any works to which a scheduled monument consent or an authorisation under section 12 relates are or have been carried out in accordance with the terms of the consent or authorisation (including any conditions).

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*Status: This is the original version (as it was originally enacted).*

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- (4) An authorised person may enter any land on which any works to which a scheduled monument consent or an authorisation under section 12 relates are being carried out to—
- (a) inspect the land (including any buildings or other structures on the land) to record any matters of archaeological or historical interest, or
  - (b) observe the carrying out of those works with a view to—
    - (i) examining and recording any objects or other material of archaeological or historical interest discovered during the course of those works, and
    - (ii) recording any matters of archaeological or historical interest discovered during the course of those works.
- (5) An authorised person may enter any land in, on or under which a scheduled monument is situated to erect and maintain on or near the site of the monument any notice boards and marker posts the Welsh Ministers consider to be desirable to protect the monument from accidental or deliberate damage.
- (6) The power in subsection (5) may not be exercised without the agreement of every owner and occupier of the land.
- (7) In this section “authorised person” means a person authorised in writing by the Welsh Ministers.

## **66 Powers of entry relating to enforcement of controls on works**

- (1) An authorised person may enter any land to—
- (a) determine whether a temporary stop notice should be issued;
  - (b) display a copy of a temporary stop notice in accordance with section 31 or attach it for the purpose of service in accordance with section 206(5)(c);
  - (c) assess whether a temporary stop notice has been complied with.
- (2) An authorised person may enter any land to—
- (a) determine whether an enforcement notice should be issued;
  - (b) attach an enforcement notice for the purpose of service in accordance with section 206(5)(c);
  - (c) assess whether an enforcement notice has been complied with.
- (3) In this section “authorised person” means a person authorised in writing by the Welsh Ministers.

## **67 Power of entry on land believed to contain monument of special historic interest**

- (1) An authorised person may enter any land in, on or under which the Welsh Ministers know or have reason to believe there is a monument of special historic interest to inspect the land (including any building or other structure on it) with a view to recording any matters of archaeological or historical interest.
- (2) An authorised person entering any land in exercise of the power in subsection (1) may carry out excavations in the land for the purposes of archaeological investigation.
- (3) An excavation under subsection (2) requires the agreement of every person whose agreement to the making of the excavation would be required apart from this section.

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- (4) But subsection (3) does not apply if the Welsh Ministers know or have reason to believe that a monument of special historic interest they know or believe to be in, on or under the land is or may be at risk of imminent damage or destruction.
- (5) In this section “authorised person” means a person authorised in writing by the Welsh Ministers.

## **68 Power of entry for survey and valuation in connection with claim for compensation**

- (1) An authorised person may enter any land to survey it, or estimate its value, in connection with a claim for compensation under this Part for any damage to that land or any other land.
- (2) In this section “authorised person” means—
  - (a) an officer of the Valuation Office of His Majesty’s Revenue and Customs, or
  - (b) a person authorised in writing by the Welsh Ministers.
- (3) The power to survey land under this section includes power to search and bore to determine the nature of the subsoil or the presence of minerals.

## **69 Supplementary provision about powers of entry under this Part**

- (1) A power to enter land under this Part may be exercised at any reasonable time; but this subsection does not apply to section 65(5).
- (2) A person authorised to enter land under this Part may not demand admission as of right to any land which is occupied unless notice of the intended entry has been given to every occupier—
  - (a) where the purpose of the entry is to carry out any works on the land (other than excavations in exercise of the power under section 67), at least 14 days before the day of the intended entry, or
  - (b) in any other case (including excavations in exercise of the power under section 67), at least 24 hours before the day of the intended entry.
- (3) Subsection (2) does not apply to entry under—
  - (a) section 61 (but see subsection (2) of that section), or
  - (b) section 66(1).
- (4) A person authorised to enter land under this Part may not enter any building or structure or part of a building or structure occupied as a dwelling without the agreement of every occupier; but this subsection does not apply to the power in section 68.
- (5) A person authorised to enter land under this Part must—
  - (a) if required to do so by or on behalf of an owner or occupier of the land, produce evidence of the person’s authorisation and state the purpose of the entry before entering the land;
  - (b) if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.
- (6) A person entering land in exercise of a power of entry under this Part may take assistance or equipment reasonably required for the purpose to which the entry relates.

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- (7) Where a person carries out any archaeological investigation or examination of land in the exercise of a power of entry under this Part, the person may take and remove any samples which appear to the person to be reasonably required for the purpose of archaeological analysis.
- (8) Where—
- (a) a power of entry under this Part is exercisable by a person (“P1”) in relation to any land, and
  - (b) works are being carried out on the land by another person (“P2”),
- P1 must, in exercising the power of entry, comply with any reasonable requirements or conditions imposed by P2 for the purpose of preventing interference or delay to the works.
- (9) Subsection (8) does not apply where the works in question are being carried out in breach of section 11 (requirement for works to be authorised).
- (10) For the purposes of subsection (8), a requirement or condition is not reasonable if complying with it would frustrate the exercise of the power of entry or the purpose of entry.
- (11) A person who intentionally obstructs a person exercising a power of entry under this Part commits an offence.
- (12) A person guilty of an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (13) Where a person—
- (a) in the exercise of the power of entry under section 68, proposes to carry out works authorised by subsection (3) of that section, and
  - (b) is required to give notice of the intended entry under subsection (2)(a) of this section,
- the person may not carry out the works unless the notice of intended entry includes notice of the person’s intention to carry them out.
- (14) Where—
- (a) in the exercise of the power of entry under section 68, a person proposes to carry out any works authorised by subsection (3) of that section on land that belongs to a statutory undertaker, and
  - (b) the undertaker objects to the proposal on the ground that carrying out of the works would be seriously detrimental to the carrying on of its undertaking,
- the person may not carry out the works without the agreement of the Welsh Ministers.

## **70 Compensation for damage caused by exercise of certain powers under this Part**

- (1) This section applies to any power to enter, or to do anything on, any land under section 40 or sections 65 to 68.
- (2) Any person interested in land is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any damage caused to the land or to property on it in the exercise of a power to which this section applies.

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- (3) A claim for compensation under this section must be made in writing within 6 months beginning with the day the damage was caused (or if the damage was caused over more than one day, the last day it was caused).

## **71 Treatment and preservation of finds**

- (1) This section applies where a person enters land in exercise of a power of entry under this Part—
- (a) to carry out excavations in the land or works affecting a monument of special historic interest situated in, on or under the land,
  - (b) to assess or observe works on the land under section 65(3) or (4)(b), or
  - (c) to carry out an archaeological examination of the land.
- (2) The person may—
- (a) take temporary custody of any object of archaeological or historical interest discovered during the course of the excavations, works or examination, and
  - (b) remove the object from its site for the purpose of examining, testing, treating, recording or preserving it.
- (3) The appropriate authority may not, without the agreement of every owner, retain the object for longer than is reasonably required to—
- (a) examine and record it, and
  - (b) carry out any test or treatment which appears to the authority to be desirable—
    - (i) for the purpose of archaeological investigation or analysis, or
    - (ii) to restore or preserve the object.
- (4) In subsection (3) “appropriate authority” means—
- (a) in a case where the power of entry was exercised by or on behalf of the Welsh Ministers, the Welsh Ministers, and
  - (b) in a case where the power of entry was exercised by or on behalf of a local authority, that authority.
- (5) This section does not affect any right of the Crown under the [Treasure Act 1996 \(c. 24\)](#).