



# Historic Environment (Wales) Act 2023

2023 asc 3

## PART 3

### BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

PROSPECTIVE

#### CHAPTER 1

##### LISTING BUILDINGS OF SPECIAL INTEREST

###### *List of buildings*

#### **76 Duty to maintain and publish list of buildings**

- (1) The Welsh Ministers must maintain a list of buildings which must include every building in Wales they consider to be of special architectural or historic interest, and must publish the up-to-date list.
- (2) The Welsh Ministers may amend the list by—
  - (a) adding a building,
  - (b) removing a building, or
  - (c) amending the entry for a building.
- (3) In considering whether a building should be included in the list, the Welsh Ministers may take into account not only the building itself but also—
  - (a) any way in which the exterior of the building contributes to the architectural or historic interest of any group of buildings of which it forms part, and
  - (b) the desirability of preserving any artificial feature of the building on the ground of its architectural or historic interest.

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- (4) In subsection (3)(b) “artificial feature” means any feature of the building consisting of a structure or artificial object that—
- (a) is fixed to the building, or
  - (b) forms part of the land and is within the curtilage of the building.
- (5) In this Act “listed building” means a building included in the list maintained under this section, and includes—
- (a) any structure or artificial object that is fixed to the building and ancillary to it;
  - (b) any other structure or artificial object that—
    - (i) forms part of the land and has done so since before 1 July 1948, and
    - (ii) was within the curtilage of the building, and ancillary to it, on the date on which the building was first included in the list, or on 1 January 1969, whichever was later.
- (6) In this Part—
- (a) “listing” a building means amending the list by adding the building;
  - (b) “de-listing” a building means amending the list by removing the building.

#### Commencement Information

- II** S. 76 not in force at Royal Assent, see [s. 212\(2\)](#)

### 77 Notification of listing or de-listing of building

- (1) As soon as possible after the Welsh Ministers list or de-list a building, they must serve notice that they have done so on—
- (a) every owner and occupier of the building, and
  - (b) every relevant local authority in whose area the building is situated.
- (2) Where the Welsh Ministers have listed a building—
- (a) the notice must specify the date on which they did so, and
  - (b) they must include with the notice a copy of the entry for the building in the list maintained under section 76.
- (3) A copy of an entry served under this section is a local land charge, and for the purposes of the [Local Land Charges Act 1975 \(c. 76\)](#) the county council or county borough council on which the copy is served is the originating authority as respects the charge.
- (4) A relevant local authority must keep available for public inspection—
- (a) copies of entries in the list that have been served on it under this section, and
  - (b) copies of any parts of the list that were deposited with it under section 2(1) of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#) or a corresponding provision of any earlier Act, so far as those parts remain up-to-date.
- (5) The copies must be available for inspection—
- (a) free of charge,
  - (b) at reasonable times, and
  - (c) at a convenient place.
- (6) In this section “relevant local authority” means—

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- (a) a county council or county borough council;
- (b) a National Park authority;
- (c) a joint planning board.

#### Commencement Information

**I2** S. 77 not in force at Royal Assent, see [s. 212\(2\)](#)

### *Proposals to list and de-list buildings: consultation and interim protection*

#### **78 Consultation before listing or de-listing building**

- (1) Where the Welsh Ministers are proposing to list or de-list a building, they must serve a notice on the persons mentioned in subsection (2) which—
  - (a) sets out the proposed amendment to the list maintained under section 76, and
  - (b) invites those persons to make written representations about the proposal.
- (2) The persons are—
  - (a) every owner and occupier of the building,
  - (b) every planning authority in whose area the building is situated, and
  - (c) any other persons the Welsh Ministers consider appropriate as having special knowledge of, or special interest in, buildings of architectural or historic interest.
- (3) A notice under subsection (1) must—
  - (a) specify the period within which representations may be made, and
  - (b) in the case of a proposal to list a building—
    - (i) include a statement of the effect of section 79 (interim protection), and
    - (ii) specify the date on which interim protection takes effect under that section.
- (4) The period specified under subsection (3)(a) must be at least 28 days beginning with the day the notice is served.

#### Commencement Information

**I3** S. 78 not in force at Royal Assent, see [s. 212\(2\)](#)

#### **79 Interim protection pending decision whether to list building**

- (1) This section applies where the Welsh Ministers serve notice under section 78(1) of a proposal to list a building.
- (2) From the beginning of the day specified under section 78(3)(b)(ii), this Act (except sections 118 and 137 to 142) and the [Town and Country Planning Act 1990 \(c. 8\)](#) have effect in relation to the building as if it were a listed building.
- (3) The protection conferred by virtue of subsection (2) is referred to in this Part as “interim protection”.

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- (4) The Welsh Ministers must—
- (a) publish a list of the buildings subject to interim protection, and
  - (b) provide a copy of the notice served under section 78(1) in respect of such a building to any person who requests one.
- (5) Interim protection ends in relation to a building—
- (a) where the Welsh Ministers list the building, at the beginning of the day specified in the notice under section 77(1);
  - (b) where the Welsh Ministers decide not to list the building, at the beginning of the day specified in a notice served on—
    - (i) every owner and occupier of the building, and
    - (ii) every planning authority in whose area the building is situated.
- (6) Schedule 7 makes provision about the effect of interim protection coming to an end under subsection (5)(b).
- (7) This section does not apply to a building which is a scheduled monument.

#### **Commencement Information**

**I4** S. 79 not in force at Royal Assent, see [s. 212\(2\)](#)

## **80 Compensation for loss or damage caused by interim protection**

- (1) This section applies where interim protection ends in relation to a building because the Welsh Ministers serve notice under section 79(5)(b) that they have decided not to list the building.
- (2) Any person who had an interest in the building when the interim protection took 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 interim protection.
- (3) 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 the need to stop or cancel works to the building because of the interim protection.
- (4) A claim for compensation under this section must be made in writing within 6 months beginning when the interim protection ends.
- (5) Where the building was previously subject to temporary listing under section 83 which ended because the interim protection took effect—
  - (a) the reference in subsection (2) to the time when the interim protection took effect is to be treated as a reference to the time when the temporary listing took effect;
  - (b) the reference in that subsection to loss or damage directly attributable to the interim protection includes loss or damage directly attributable to the temporary listing;
  - (c) the reference in subsection (3) to the need to stop or cancel works because of the interim protection includes the need to do so because of the temporary listing.

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#### Commencement Information

**I5** S. 80 not in force at Royal Assent, see [s. 212\(2\)](#)

### *Review of listing decisions*

#### **81 Review of decision to list building**

- (1) Where the Welsh Ministers list a building, the notice under section 77(1) must state that any owner or occupier of the building may make an application to the Welsh Ministers requesting a review of the decision.
- (2) An application may be made only on the ground that the building is not of special architectural or historic interest.
- (3) Where an owner or occupier makes an application for a review, the Welsh Ministers must appoint a person to—
  - (a) carry out the review, and
  - (b) make a decision on the review.
- (4) The Welsh Ministers may by regulations specify descriptions of cases in which they, instead of a person appointed by them, must carry out and make a decision on a review.
- (5) The Welsh Ministers must make any amendment to the list maintained under section 76 they consider appropriate to give effect to a decision on a review.
- (6) The Welsh Ministers may by regulations amend subsection (2) to—
  - (a) add a ground of review;
  - (b) modify a ground of review;
  - (c) remove a ground of review.

#### Commencement Information

**I6** S. 81 not in force at Royal Assent, see [s. 212\(2\)](#)

#### **82 Supplementary provision about reviews**

- (1) The Welsh Ministers must by regulations make provision about—
  - (a) the form and way in which an application under section 81 must be made;
  - (b) the information that must be provided to, or may be required by, the Welsh Ministers in connection with an application;
  - (c) the period within which an application must be made.
- (2) A review under section 81 must be carried out in one or more of the following ways (as determined by the person carrying out the review)—
  - (a) by means of a local inquiry;
  - (b) by means of a hearing;
  - (c) on the basis of written representations.

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- (3) Where a review is carried out by a person appointed by the Welsh Ministers, the appointed person has the same powers and duties in relation to the review as the Welsh Ministers have under—
  - (a) any regulations made under section 175 (procedural requirements), and
  - (b) sections 180 and 181 (costs of Welsh Ministers and parties).
- (4) Where a review is carried out by means of a local inquiry, section 177 (power to require evidence) applies to the inquiry as it applies to an inquiry held under Part 5.
- (5) The Welsh Ministers may by regulations make further provision in connection with reviews under section 81.
- (6) Schedule 2 makes further provision about the functions of persons appointed by the Welsh Ministers to carry out reviews under section 81.

#### Commencement Information

**I7** S. 82 not in force at Royal Assent, see [s. 212\(2\)](#)

### *Temporary listing*

#### **83 Service of temporary listing notice**

- (1) This section applies if a planning authority considers that a building in its area which is not a listed building (and is not treated as one by virtue of section 79(2)) is—
  - (a) of special architectural or historic interest, and
  - (b) in danger of being demolished or of being altered in a way that would affect its character as a building of special architectural or historic interest.
- (2) The authority may serve a temporary listing notice on every owner and occupier of the building.
- (3) A temporary listing notice is a notice which—
  - (a) states that the planning authority—
    - (i) considers the building to be of special architectural or historic interest, and
    - (ii) has requested the Welsh Ministers to consider listing it, and
  - (b) explains the effect of subsection (4), section 85 and Schedule 7.
- (4) As soon as a temporary listing notice has been served on every owner and occupier of the building to which it relates, this Act (except sections 118 and 137 to 142) and the [Town and Country Planning Act 1990 \(c. 8\)](#) have effect in relation to the building as if it were a listed building.
- (5) The protection conferred by virtue of subsection (4) is referred to in this Part as “temporary listing”.
- (6) This section and section 84 do not apply to—
  - (a) a building which is a scheduled monument, or
  - (b) an exempt religious building.

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#### Commencement Information

**18** S. 83 not in force at Royal Assent, see [s. 212\(2\)](#)

### **84 Temporary listing in urgent cases**

- (1) This section applies if a planning authority considers it urgent that temporary listing should take effect in relation to a building in its area.
- (2) The authority may, instead of serving a temporary listing notice on each owner and occupier of the building—
  - (a) attach the notice conspicuously to the building, or
  - (b) if it is not reasonably practicable to attach the notice to the building, or the authority considers that doing so might damage the building, display the notice in a prominent place as near to the building as is reasonably practicable.
- (3) Attaching or displaying a notice in accordance with subsection (2) is to be treated for the purposes of section 83(4) as serving the notice on every owner and occupier of the building.
- (4) The notice must explain that by virtue of having been attached or displayed in accordance with subsection (2) the notice is treated as having been served for those purposes.

#### Commencement Information

**19** S. 84 not in force at Royal Assent, see [s. 212\(2\)](#)

### **85 End of temporary listing**

- (1) Temporary listing of a building has effect until the end of the 6 months beginning with the day it takes effect under section 83(4), unless it ends under subsection (2) or (3).
- (2) If the Welsh Ministers serve notice under section 78(1) of a proposal to list the building, temporary listing ends when interim protection takes effect in relation to the building (and the building continues to be treated as if it were a listed building for certain purposes by virtue of section 79(2)).
- (3) If the Welsh Ministers notify the planning authority in writing that they do not intend to consult under section 78 on a proposal to list the building, temporary listing ends at the beginning of the day specified in the notification.
- (4) Schedule 7 makes provision about the effect of temporary listing coming to an end—
  - (a) at the end of the 6-month period mentioned in subsection (1), or
  - (b) because the Welsh Ministers give notification under subsection (3) that they do not intend to consult on a proposal to list the building.
- (5) If temporary listing ends in relation to a building because the Welsh Ministers notify the planning authority that they do not intend to consult on a proposal to list the building—
  - (a) the authority must immediately give notice of that decision to every owner and occupier of the building;

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- (b) the authority may not serve another temporary listing notice in respect of the building during the 12 months beginning with the day the Welsh Ministers give the notification.

**Commencement Information**

**I10** S. 85 not in force at Royal Assent, see [s. 212\(2\)](#)

**86 Compensation for loss or damage caused by temporary listing**

- (1) This section applies where temporary listing ends in relation to a building—
- (a) at the end of the 6-month period mentioned in section 85(1), or
  - (b) because the Welsh Ministers give notification under section 85(3) that they do not intend to consult on a proposal to list the building.
- (2) Any person who had an interest in the building when the temporary listing took effect is entitled, on making a claim to the planning authority in whose area the building is situated, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the temporary listing.
- (3) 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 the need to stop or cancel works to the building because of the temporary listing.
- (4) A claim for compensation under this section must be made in writing within 6 months beginning when the temporary listing ends.

**Commencement Information**

**I11** S. 86 not in force at Royal Assent, see [s. 212\(2\)](#)

*Buildings not intended to be listed*

**87 Certificate that Welsh Ministers do not intend to list building**

- (1) The Welsh Ministers may, on the application of any person, issue a certificate stating that they do not intend to list a building.
- (2) During the 5 years beginning with the day the certificate is issued—
- (a) the Welsh Ministers may not list the building or serve notice under section 78(1) of a proposal to list the building;
  - (b) a planning authority in whose area the building is situated may not serve a temporary listing notice in relation to the building.
- (3) An applicant for a certificate must give notice of the application to every planning authority in whose area the building is situated at the same time as submitting the application to the Welsh Ministers.



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### Commencement Information

**I12** S. 87 not in force at Royal Assent, see [s. 212\(2\)](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, CHAPTER 1.