



# Historic Environment (Wales) Act 2023

2023 asc 3

## PART 3

### BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

#### CHAPTER 2

##### CONTROL OF WORKS AFFECTING LISTED BUILDINGS

###### *Right of owner of listed building to require purchase of interest*

#### **109 Purchase notice where consent is refused, granted subject to conditions, modified or revoked**

- (1) This section applies where—
  - (a) on an application for listed building consent, consent is refused or is granted subject to conditions, or
  - (b) an order under section 107 modifies or revokes listed building consent.
- (2) If an owner of the listed building to which the application or order relates claims—
  - (a) that the first set of conditions is met in relation to the building, and
  - (b) that the first and second sets of conditions are met in relation to any associated land,the owner may serve a purchase notice on the planning authority in whose area the listed building is situated.
- (3) A purchase notice is a notice requiring the planning authority to purchase the owner's interest in the listed building and associated land.
- (4) The first set of conditions is—
  - (a) that the listed building and associated land in respect of which the notice is served are unusable in their existing state,

- (b) in a case where listed building consent has been granted subject to conditions or has been modified by the imposition of conditions, that the building and land cannot be made usable by carrying out the works to which the consent relates in accordance with the conditions, and
  - (c) in any case, that the building and land cannot be made usable by carrying out any other works for which listed building consent has been granted or for which the planning authority or the Welsh Ministers have undertaken to grant listed building consent.
- (5) The second set of conditions is—
- (a) that the use of the associated land is substantially inseparable from the use of the listed building, and
  - (b) that the associated land ought to be treated, together with the building, as a single holding.
- (6) In this section and Schedule 9—
- “associated land” (*“tir cysylltiedig”*), in relation to a listed building, means land which—
    - (a) includes, adjoins or is adjacent to the building, and
    - (b) is owned with the building;
  - “usable” (*“defnyddiadwy”*), in relation to a listed building or associated land, means capable of reasonably beneficial use.
- (7) In determining whether a listed building and associated land are usable in their existing state, a prospective use of the building or land must be ignored if it would involve—
- (a) carrying out works requiring listed building consent which has not been granted and which neither a planning authority nor the Welsh Ministers have undertaken to grant, or
  - (b) carrying out development for which planning permission has not been granted and for which neither a planning authority nor the Welsh Ministers have undertaken to grant permission.
- (8) A listed building is not unusable in its existing state if—
- (a) the existing state of the building was caused by a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted, and
  - (b) the building could be made usable by taking steps that are or could be required by an enforcement notice under section 123.

## **110 Purchase notice in respect of Crown land**

- (1) The owner of a private interest in Crown land may not serve a purchase notice in respect of that interest unless—
- (a) the owner has offered to dispose of the interest to the appropriate Crown authority for a price that is equal to (and if not agreed, is to be determined in the same way as) the compensation that would be payable for the interest if it were acquired in pursuance of a purchase notice, and
  - (b) the appropriate Crown authority has refused the offer.
- (2) Only the appropriate Crown authority may serve a purchase notice in respect of a Crown interest or Duchy interest in land which—
- (a) forms part of the Crown Estate,

- (b) belongs to His Majesty in right of His private estates,
  - (c) belongs to His Majesty in right of the Duchy of Lancaster, or
  - (d) belongs to the Duchy of Cornwall.
- (3) A purchase notice may not be served in respect of a Crown interest or Duchy interest in any other land.

## 111 Further provision about service of purchase notice

- (1) A purchase notice must be served within 12 months beginning with—
- (a) in the case of a notice relating to a decision to refuse listed building consent or grant it subject to conditions, the day the decision is made, or
  - (b) in the case of a notice relating to an order under section 107 modifying or revoking listed building consent, the day the order takes effect.
- (2) In a case where the Welsh Ministers determine an appeal against a decision of a planning authority to refuse listed building consent or grant it subject to conditions, the reference in subsection (1)(a) to the day the decision is made is to be read as a reference to the day the Welsh Ministers determine the appeal.
- (3) The Welsh Ministers may at any time extend the period for serving a purchase notice in a particular case, if they are satisfied that there are good reasons for doing so.
- (4) The Welsh Ministers may by regulations make provision about how a purchase notice must be served.
- (5) Where a repairs notice has been served on an owner of a listed building under section 138, the owner is not entitled to serve a purchase notice in respect of the building—
- (a) before the end of 3 months beginning with the day the repairs notice is served, or
  - (b) if during that period the compulsory acquisition of the building is started under section 137, unless the compulsory acquisition is discontinued.
- (6) An owner of a listed building who has served a purchase notice may not amend the notice; but that does not prevent the owner serving a further purchase notice relating to the same decision or order.
- (7) If an owner serves a further purchase notice relating to the same decision or order, the earlier notice is to be treated as withdrawn unless the later notice states that the owner does not intend to withdraw it.
- (8) For the purposes of subsection (5)—
- (a) a compulsory acquisition is started—
    - (i) by a planning authority when it serves the notice required by section 12 of the [Acquisition of Land Act 1981 \(c. 67\)](#);
    - (ii) by the Welsh Ministers when they serve the notice required by paragraph 3(1) of Schedule 1 to that Act;
  - (b) a compulsory acquisition is discontinued—
    - (i) in the case of an acquisition by a planning authority, when the compulsory purchase order is withdrawn or the Welsh Ministers decide not to confirm it;

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

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(ii) in the case of an acquisition by the Welsh Ministers, when they decide not to make the compulsory purchase order.

## **112 Action following service of purchase notice**

Schedule 9 makes provision about the action to be taken by planning authorities and the Welsh Ministers following the service of a purchase notice.