



# Historic Environment (Wales) Act 2023

2023 asc 3

## PART 2

### MONUMENTS OF SPECIAL HISTORIC INTEREST

#### CHAPTER 3

##### CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS

###### *Compensation*

PROSPECTIVE

#### **21 Compensation for refusal of scheduled monument consent or grant of consent subject to conditions**

- (1) This section applies where—
  - (a) an application for scheduled monument consent for works of a description mentioned in subsection (3) is refused, or
  - (b) an application for scheduled monument consent for works of such a description is granted subject to conditions.
- (2) Any person who has an interest in the monument in question is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any expenditure incurred or other loss or damage suffered by the person that is directly attributable to the effect of the decision on the application; but this is subject to the following provisions of this section.
- (3) The works in respect of which compensation is payable under this section are—
  - (a) works which are reasonably necessary for carrying out any development for which planning permission—

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, Section 21. (See end of Document for details)*

- (i) had been granted (otherwise than by a general development order) before the monument in question became a scheduled monument, and
  - (ii) was still effective when the application for scheduled monument consent was made,
  - (b) works constituting development for which planning permission is granted by a general development order,
  - (c) works which do not constitute development, and
  - (d) works which are reasonably necessary for the continuation of a use of the monument for a purpose for which it was in use immediately before the date of the application for scheduled monument consent (but ignoring any use in breach of any legal restrictions applying to the use of the monument).
- (4) The compensation payable under this section in respect of works within subsection (3) (a) is limited to compensation for expenditure incurred or other loss or damage suffered by virtue of the fact that, in consequence of the Welsh Ministers' decision, development for which the planning permission in question was granted could not be carried out without breaching section 11 (requirement for works to be authorised).
- (5) A person is not entitled to compensation under this section in respect of any works within subsection (3)(b) or (c) if the works in question or any of them would or might result in the total or partial demolition or destruction of the monument.
- (6) Where scheduled monument consent is granted subject to conditions, a person is not entitled to compensation under this section in respect of any works within subsection (3)(d) unless compliance with those conditions would in effect make it impossible to use the monument for the purpose for which it was in use before the date of the application.
- (7) In assessing any compensation payable under this section for loss or damage consisting of depreciation of the value of an interest in land—
- (a) it is to be assumed that any subsequent application for scheduled monument consent for works of a similar description would be determined in the same way, but
  - (b) in the case of a refusal of scheduled monument consent, if the Welsh Ministers, on refusing that consent, undertook to grant consent for other works affecting the monument in the event of an application being made, regard must be had to that undertaking.
- (8) A claim for compensation under this section must be made in writing within 6 months beginning with the day of—
- (a) the notice of refusal of scheduled monument consent, or
  - (b) the grant of scheduled monument consent.
- (9) In this section “general development order” means a development order under section 59 of the [Town and Country Planning Act 1990 \(c. 8\)](#) that applies to all land in Wales (subject to any exceptions specified in the order).

#### **Commencement Information**

**II** S. 21 not in force at Royal Assent, see [s. 212\(2\)](#)

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, Section 21.