



# Historic Environment (Wales) Act 2016

2016 anaw 4

## PART 2

### ANCIENT MONUMENTS ETC

#### *Scheduled monuments: enforcement*

#### **13 Temporary stop notices**

- (1) In the Ancient Monuments and Archaeological Areas Act 1979 (c.46), after section 9ZH (inserted by section 12) insert—

*“Scheduled monuments: temporary stop notices*

#### **9ZI Temporary stop notice**

- (1) This section applies where it appears to the Welsh Ministers that works affecting a scheduled monument situated in Wales or land in, on or under which there is such a scheduled monument have been or are being carried out in contravention of section 2(1) or (6).
- (2) The Welsh Ministers may issue a notice under this section (referred to in this Part as a “temporary stop notice”) if, having regard to the effect of the works on the monument as one of national importance, they consider that it is expedient that the works are stopped immediately (or that part of them is).
- (3) A temporary stop notice must be in writing and must—
- specify the works in question;
  - prohibit execution of the works (or so much of them as is specified in the notice);
  - set out the Welsh Ministers' reasons for issuing the notice; and
  - include a statement of the effect of section 9ZK.

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- (4) A temporary stop notice may be served on a person who appears to the Welsh Ministers—
  - (a) to be carrying out the works or causing them to be carried out; or
  - (b) to have an interest in the monument or land.
- (5) The Welsh Ministers must display a copy of the notice on the monument or land (except where doing so might damage the monument, in which case it is sufficient to display the notice in a prominent position as close to the monument or land as is reasonably practicable); and the copy must specify the date on which it is first displayed.
- (6) A temporary stop notice takes effect when the copy of it is first displayed in accordance with subsection (5).
- (7) A temporary stop notice ceases to have effect—
  - (a) at the end of the period of 28 days beginning with the day on which the copy of it is first displayed in accordance with subsection (5); or
  - (b) if the notice specifies a shorter period beginning with that day, at the end of that period.
- (8) But if the Welsh Ministers withdraw the notice before the time when it would otherwise cease to have effect under subsection (7), the notice ceases to have effect on its withdrawal.
- (9) The Welsh Ministers may not issue a 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 contravention referred to in subsection (1).
- (10) The reference in subsection (9) to taking other enforcement action includes a reference to obtaining an injunction under section 9ZM.

#### **9ZJ Temporary stop notice: power of entry**

A person duly authorised in writing by the Welsh Ministers may at any reasonable time enter any land for any of the following purposes?—

- (a) ascertaining whether a temporary stop notice should be served;
- (b) securing the display of a temporary stop notice or securing that it is affixed for the purposes of service in accordance with section 56(2)(b);
- (c) ascertaining whether a temporary stop notice has been complied with;
- (d) considering a claim for compensation under section 9ZL.

#### **9ZK Temporary stop notice: offence**

- (1) A person is guilty of an offence if the person contravenes, or causes or permits a contravention of, a temporary stop notice—
  - (a) which has been served on the person; or
  - (b) a copy of which has been displayed in accordance with section 9ZI(5).
- (2) An offence under this section may be charged by reference to a day or to some longer period; accordingly, a person may, in relation to the same temporary

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stop notice, be convicted of more than one offence under this section 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 against a person for an offence under this section, it is a defence for the person to prove—
  - (a) that the works were urgently necessary in the interests of safety or health; and
  - (b) that notice in writing of the need for 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 a fine to be imposed on a person convicted under this section, 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.

#### **9ZL Temporary stop notice: compensation**

- (1) A person who, on the day when a temporary stop notice is first displayed in accordance with section 9Z1(5), has an interest in the monument or land concerned is, on making a claim to the Welsh Ministers within the prescribed time and manner, entitled to be paid compensation by them in respect of any loss or damage directly attributable to the effect of the notice.
  - (2) But subsection (1) applies only if—
    - (a) the works specified in the notice do not contravene section 2(1) or (6); or
    - (b) the Welsh Ministers withdraw the notice other than following the grant of scheduled monument consent, after the day mentioned in subsection (1), which authorises the works.
  - (3) The loss or damage in respect of which compensation is payable under this section includes a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the notice.
  - (4) No compensation is payable under this section in the case of loss or damage suffered by a claimant if—
    - (a) the claimant was required to provide information under section 57, and
    - (b) the loss or damage could have been avoided if the claimant had provided the information or otherwise co-operated with the Welsh Ministers when responding to the notice.”
- (2) In section 27 of that Act (general provisions as to compensation for depreciation under Part 1 of the Act), in subsection (2), after “section 1AD, 7, 9” (inserted by section 4) insert “ or 9ZL ”.
  - (3) In section 44 of that Act (supplementary provisions with respect to powers of entry), in subsection (2), at the end insert—

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“, or in relation to the power of entry under section 9ZJ of this Act where it is exercised for any of the purposes mentioned in paragraphs (a) to (c) of that section.”

- (4) In section 46 of that Act (compensation for damage caused by exercise of certain powers), in subsection (3), after “9ZF,” (inserted by section 12) insert “ 9ZJ, ”.
- (5) In section 51 of that Act (ecclesiastical property), in subsection (3), after “1AD,” (inserted by section 4) insert “ 9ZL, ”.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act repealed by [2023 asc 3 Sch. 13 para. 193](#)