



Historic Environment (Wales) Act 2016

2016 anaw 4

PART 5

GENERAL

40 Regulations and orders

- (1) In section 60 of the Ancient Monuments and Archaeological Areas Act 1979 (c.46) (regulations and orders: general provisions), after subsection (1) insert—

“(1A) Any power of the Welsh Ministers to make regulations or an order under this Act includes power to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Welsh Ministers consider appropriate.”

- (2) After subsection (2) of that section insert—

“(3) Any power of the Welsh Ministers to make regulations under this Act or an order under section 3, 37 or 61 is exercisable by statutory instrument.

- (4) A statutory instrument containing—

- (a) regulations under section 1AA or 9ZB; or
- (b) regulations which, by virtue of subsection (1A), amend or repeal any provision of an Act of Parliament or an Act or Measure of the National Assembly for Wales,

may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

- (5) Any other statutory instrument containing regulations or an order made by the Welsh Ministers under this Act, other than regulations under section 19, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

- (3) In section 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9) (regulations and orders: general provisions), in subsection (1), after “regulations

Changes to legislation: *Historic Environment (Wales) Act 2016, Section 40 is up to date with all changes known to be in force on or before 19 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

under this Act” insert “ in relation to England and the Welsh Ministers may make regulations under this Act in relation to Wales ”.

(4) In subsection (3) of that section—

- (a) after “regulations made under this Act” insert “ , other than regulations under section 2A , 26M or 56A, ”, and
- (b) after “either House of Parliament” insert “ (in the case of regulations made by the Secretary of State) or the National Assembly for Wales (in the case of regulations made by the Welsh Ministers) ”.

(5) After subsection (3) of that section insert—

“(3A) A statutory instrument containing regulations under section 2A, 26M or 56A may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”

(6) In subsection (4) of that section, after “sections 8(5), 26C,” insert “ 55(5B), ”.

(7) In subsection (5) of that section—

- (a) after “an order under section” insert “ 55(5B), ”, and
- (b) after “either House of Parliament” insert “ (in the case of an order made by the Secretary of State) or the National Assembly for Wales (in the case of an order made by the Welsh Ministers) ”.

(8) In subsection (6) of that section, after “the Secretary of State” insert “ or (as the case may be) the Welsh Ministers ”.

(9) In section 21 of that Act (appeals: supplementary provision), omit subsections (10) and (11).

(10) In Schedule 3 to that Act (determination of certain appeals by person appointed by Welsh Ministers), in paragraph 8, omit sub-paragraph (6).

(11) Regulations under this Act must be made by statutory instrument.

(12) A statutory instrument containing—

- (a) regulations under section 35(9) (power to vary meaning of “historic environment record”), or
- (b) regulations under section 39(7)(h) (Advisory Panel for Welsh Historic Environment: disqualification from membership for staff of specified organisations),

may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.

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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](#)