

EXPLANATORY NOTES

HISTORIC ENVIRONMENT (WALES) ACT 2023

INTRODUCTION

SUMMARY AND BACKGROUND

COMMENTARY ON SECTIONS

PART 1 — OVERVIEW

Section 1 — Overview

PART 2 — MONUMENTS OF SPECIAL HISTORIC INTEREST

Chapter 1 — Key terms

Section 2 — Meaning of “monument” and “site of monument”

Chapter 2 — Schedule of monuments of national importance

Section 3 — Duty to maintain and publish schedule of monuments

Section 4 — Notification of owner etc. where the schedule is amended

Section 5 — Consultation before adding or removing monument to or from the schedule

Section 6 — Interim protection pending decision on certain amendments relating to the schedule

Section 7 — When interim protection ends

Schedule 1 — End of interim protection for monuments

Section 8 — Compensation for loss or damage caused by interim protection

Section 9 — Review of decision to add monument to the schedule etc.

Section 10 — Supplementary provision about reviews

Schedule 2 — Decision on review by person appointed by the Welsh Ministers

Schedule 6 — Proceedings under Part 2

Chapter 3 — Control of works affecting scheduled monuments

Section 11 — Requirement for works to be authorised

Section 12 — Authorisation of classes of works

Schedule 3 — Authorisation for classes of works

Section 13 — Authorisation of works by scheduled monument consent

Section 14 — Applying for scheduled monument consent

Section 15 — Declarations of ownership in respect of monument

Section 17 — Procedure for determining applications and effect of grant of consent

Schedule 6 — Proceedings under Part 2

Section 18 — Power to grant consent subject to conditions

Section 19 — Condition about period within which works must start

Section 20 — Modification and revocation of consent

Schedule 4 — Procedure for orders modifying or revoking scheduled monument consent

Schedule 6 — Proceedings under Part 2

Section 21 — Compensation for refusal of scheduled monument consent or grant of consent subject to conditions

Section 22 — Recovery of compensation paid under section 21 on subsequent grant of consent

Section 23 — Determination of amount recoverable under section 22

Section 24 — Compensation where works affecting a scheduled monument cease to be authorised

Chapter 4 — Scheduled monument partnership agreements

Section 25 — Scheduled monument partnership agreements

Section 26 — Further provision about scheduled monument partnership agreements

Section 27 — Termination of agreement or provision of agreement

Schedule 5 — Termination by order of scheduled monument partnership agreement

Schedule 6 — Proceedings under Part 2

Section 28 — Compensation in relation to termination

Chapter 5 — Enforcement of controls relating to scheduled monuments

Section 30 — Offence of carrying out unauthorised works or breaching condition of consent

Section 31 — Power of Welsh Ministers to issue temporary stop notice

Section 32 — Duration etc. of temporary stop notice

Section 33 — Offence of breaching temporary stop notice

Section 34 — Compensation for loss or damage caused by temporary stop notice

Section 35 — Power of Welsh Ministers to issue enforcement notice

Section 36 — Service and taking effect of enforcement notice

Section 38 — Effect of granting scheduled monument consent on enforcement notice

Section 39 — Appeal against enforcement notice

Section 40 — Powers to enter land and take steps required by enforcement notice

Section 41 — Offence of failing to comply with enforcement notice

Section 42 — Injunction to restrain unauthorised works or failure to comply with condition of consent

Chapter 6 — Acquisition, guardianship and public access

Section 43 — Compulsory acquisition of monuments of special historic interest

Section 44 — Acquisition by agreement or gift of monuments of special historic interest

Section 45 — Power to place monument of special historic interest under guardianship

Section 46 — Supplementary provision about guardianship deeds

Section 47 — General functions of guardians

Section 48 — Termination of guardianship

Section 49 — Acquisition and guardianship of land in the vicinity of a monument

Section 50 — Acquisition of easements and other similar rights over land in the vicinity of a monument

Section 51 — Agreements concerning management of monuments of special historic interest and land in their vicinity

Section 52 — Powers of limited owners for purposes of sections 45, 50 and 51

Section 55 — Public access to monuments under public control

Section 56 — Power to make regulations and byelaws in connection with public access to monuments under public control

Section 57 — Provision of facilities for the public in connection with monuments of special historic interest

Chapter 7 — General

Section 58 — Offence of damaging certain monuments of special historic interest

Section 60 — Restrictions on use of metal detectors

Section 61 — Works for preservation of scheduled monument in cases of urgency

Section 62 — Expenditure on acquisition and preservation of monuments of special historic interest etc.

Section 63 — Advice and supervision of work by Welsh Ministers

Section 64 — Expenditure by local authorities on archaeological investigation

Section 65 — Powers of entry for inspection of scheduled monuments etc.

Section 66 — Powers of entry relating to enforcement of controls on works

Section 67 — Power of entry on land believed to contain monument of special historic interest

Section 69 — Supplementary provision about powers of entry under this Part

Section 71 — Treatment and preservation of finds

Section 72 — Validity of certain decisions and orders under this Part

Section 73 — Application to High Court for statutory review of decision or order

Section 74 — Crown land

Section 75 — Interpretation of this Part

PART 3 — BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

Chapter 1 — Listing buildings of special interest

Section 76 — Duty to maintain and publish list of buildings

Section 77 — Notification of listing or de-listing of building

Section 78 — Consultation before listing or de-listing building

Section 79 — Interim protection pending decision whether to list building

Schedule 7 — End of interim protection or temporary listing for buildings

Section 80 — Compensation for loss or damage caused by interim protection

Section 81 — Review of decision to list building

Section 82 — Supplementary provision about reviews

Schedule 2 — Decision on review by person appointed by the Welsh Ministers

Section 83 — Service of temporary listing notice

Section 84 — Temporary listing in urgent cases

Section 85 — End of temporary listing

Schedule 7 — End of interim protection or temporary listing for buildings

Section 86 — Compensation for loss or damage caused by temporary listing

Section 87 — Certificate that Welsh Ministers do not intend to list building

Chapter 2 Control of works affecting listed buildings

Section 88 Requirement for works to be authorised

Section 89 Authorisation of works by listed building consent

Section 90 Applying for listed building consent

Section 91 Notice of application to owners of building

Section 92 Procedure for dealing with application

Section 94 Reference of application to Welsh Ministers

Section 95 Notification to Welsh Ministers before granting consent

Section 96 Grant or refusal of consent

Section 97 Power to grant consent subject to conditions

Section 98 Condition about period within which works must start

Section 99 Application for variation or removal of conditions

Section 100 Right to appeal against planning authority decision or failure to make decision

Section 101 Procedure for making appeal

Section 103 Decision on application after service of notice of appeal

Section 104 Determination of appeal

Section 105 Applications by planning authorities and the Crown

Section 106 Applications relating to urgent works on Crown land

Section 107 Modification and revocation of consent

Schedule 8 Procedure for orders modifying or revoking listed building consent

Section 108 Compensation where consent is modified or revoked

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

Section 112 Action following service of purchase notice

Schedule 9 Action following service of purchase notice

Chapter 3 Listed building partnership agreements

Section 113 — Listed building partnership agreements

Section 114 — Further provision about listed building partnership agreements

Section 115 — Termination of agreement or provision of agreement

Schedule 10 — Procedure for orders terminating listed building partnership agreements

Section 116 — Compensation where agreement or provision is terminated

Chapter 4 Enforcement of controls relating to listed buildings

Section 117 — Offence of carrying out unauthorised works or breaching condition of consent

Section 118 — Offence of intentionally damaging listed building

Section 119 — Power of planning authority to issue temporary stop notice

Section 122 — Compensation for loss or damage caused by temporary stop notice

Section 123 — Power of planning authority to issue enforcement notice

Section 124 — Service and taking effect of enforcement notice

Section 126 — Effect of granting listed building consent on enforcement notice

Section 127 — Right to appeal against enforcement notice

Section 128 — Determination of appeal

Section 130 — Order to permit steps required by enforcement notice

Section 131 — Power to enter land and take steps required by enforcement notice

Section 132 — Recovery of costs of compliance with enforcement notice

Section 133 — Offence of failing to comply with enforcement notice

Section 135 — Injunction to restrain unauthorised works or failure to comply with condition of consent

Chapter 5 — Acquisition and preservation of buildings of special interest

Section 136 — Power of planning authority to acquire building by agreement

Section 137 — Powers to acquire listed building compulsorily for purpose of preservation

Section 138 — Requirement to serve repairs notice before starting compulsory acquisition

Section 139 — Application to stop compulsory acquisition

Section 140 — Direction for minimum compensation where building deliberately allowed to fall into disrepair

Section 141 — Application for removal of direction for minimum compensation

Section 142 — Ending of rights over land acquired compulsorily

Section 143 — Management, use and disposal of building acquired under this Chapter

Section 144 — Urgent works to preserve listed building

Section 145 — Power to require owner to meet costs of preservation works

Section 146 — Further provision about recovery of costs of preservation work

Section 147 — Steps for preservation of listed buildings in disrepair

Section 148 — Grant or loan by local authority for repair or maintenance of building

Section 149 — Recovery of grant made by local authority

Section 150 — Grant by Welsh Ministers for repair or maintenance of building, garden etc.

Section 151 — Acceptance by Welsh Ministers of endowment for upkeep of building

Chapter 6 — General

Section 152 — Powers to enter land

Section 153 — Exercise of power to enter land without warrant

Section 154 — Warrant to enter land

Section 156 — Exempt religious buildings

PART 4 — CONSERVATION AREAS

Section 158 — Designating areas of special architectural or historic interest as conservation areas

Section 159 — Duty to formulate and publish proposals for preservation and enhancement of conservation areas

Section 160 — Exercise of planning functions: general duty relating to conservation areas

Section 161 — Requirement for demolition to be authorised

Schedule 11 — Effect of section 161 ceasing to apply to building

Section 162 — Authorisation of demolition by conservation area consent

Section 163 — Application of Part 3 to conservation areas

Section 164 — Urgent works to preserve buildings in conservation areas

Section 165 — Grant by Welsh Ministers for preservation or enhancement of conservation areas

Section 166 — Conservation area agreements

PART 5 — SUPPLEMENTARY PROVISION ABOUT BUILDINGS OF SPECIAL INTEREST AND CONSERVATION AREAS

Chapter 1 — Exercise of functions by planning authorities and other local authorities

Section 167 — Fees and charges for exercising functions

Section 168 — Arrangements for exercising functions in relation to applications

Section 169 — Arrangements for obtaining specialist advice

Section 171 — Contributions towards expenditure by local authorities

Chapter 2 — Proceedings before the Welsh Ministers

Section 173 — Determination of appeal by appointed person

Schedule 12 — Determination of appeal by appointed person or the Welsh Ministers

Section 174 — Choice of inquiry, hearing or written procedure

Section 175 — Procedural requirements

Section 176 — Power of Welsh Ministers to hold local inquiry

Section 177 — Power of person holding inquiry to require evidence

Section 178 — Access to evidence at inquiry

Section 179 — Payment of appointed representative where access to evidence restricted

Section 180 — Payment of costs of Welsh Ministers

Section 181 — Orders relating to costs of parties

Chapter 3 — Validity and correction of decisions

Section 182 — Validity of certain decisions and orders relating to buildings

Section 183 — Application to High Court for statutory review of decision or order

Section 184 — Appeal to High Court against decision relating to enforcement notice

Section 185 — Meaning of “decision document” and “correctable error”

Section 186 — Power to correct correctable errors in decision documents

Section 187 — Effect and validity of correction notice

PART 6 — OTHER HERITAGE ASSETS AND RECORDS

Section 192 — Duty to maintain and publish register of historic parks and gardens

Section 193Duty to maintain and publish list of historic place names

Section 194Duty to maintain historic environment records

Section 195 — Access to historic environment records

Section 196 — Guidance to certain public bodies about historic environment records

PART 7 — GENERAL

Section 197 — Power to require information by notice

Section 198 — Offences in connection with section 197

Section 199 — Information about interests in Crown land

Section 201 — Civil sanctions

Section 202 — Making claims for compensation

Section 203 — Determination of compensation claims by Upper Tribunal

Section 204 — Compensation for depreciation of value of land

Section 205 — Service of notices and other documents: general

These notes refer to the Historic Environment (Wales) Act 2023 (c.3)

Section 206 — Additional provision about service on persons interested in or occupying land

Section 208 — Church of England land

Section 209 — Regulations under this Act

Section 211 — Consequential and transitional provision etc.

Schedule 13 — Minor and consequential amendments and repeals

Schedule 14 — Transitional and saving provisions

Section 213 — Short title

RECORD OF PROCEEDINGS IN SENEDD CYMRU