



# Historic Environment (Wales) Act 2023

2023 asc 3

## PART 2

### MONUMENTS OF SPECIAL HISTORIC INTEREST

#### CHAPTER 5

##### ENFORCEMENT OF CONTROLS RELATING TO SCHEDULED MONUMENTS

PROSPECTIVE

##### *Offences relating to unauthorised works*

#### **30 Offence of carrying out unauthorised works or breaching condition of consent**

- (1) A person commits an offence if the person carries out, or causes or permits to be carried out, works in relation to a scheduled monument in breach of section 11 (requirement for works to be authorised).
- (2) A person also commits an offence if the person—
  - (a) carries out, or causes or permits to be carried out, works in relation to a scheduled monument, and
  - (b) fails to comply with a condition subject to which scheduled monument consent has been granted for the works.
- (3) Subsection (2) does not limit what may be an offence under subsection (1).
- (4) In proceedings against a person for an offence under subsection (1) in relation to a monument on which interim protection is conferred—
  - (a) it is a defence for the person to prove that the person did not know, and could not reasonably have been expected to know, that the interim protection had been conferred, and

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, Cross Heading: Offences relating to unauthorised works. (See end of Document for details)*

- (b) where the defence is raised by a person on whom a notice should have been served under section 5(2), it is for the prosecution to prove that the notice was served on the person.
- (5) In proceedings against a person for an offence under subsection (2), it is a defence for the person to prove that the person took all reasonable precautions and exercised all due diligence to avoid breaching the condition.
- (6) In proceedings against a person for an offence under this section in relation to works within section 11(2)(a), it is a defence for the person to prove that the person took all reasonable precautions and exercised all due diligence to avoid or prevent damage to the monument.
- (7) In proceedings against a person for an offence under this section in relation to works within section 11(2)(a) or (c), it is a defence for the person to prove that—
  - (a) before carrying out the works or before causing or permitting the works to be carried out, the person had taken all reasonable steps to find out whether there was a scheduled monument in the area affected by the works, and
  - (b) the person did not know, and had no reason to believe, that the monument was within the area affected by the works or (as the case may be) that it was a scheduled monument.
- (8) In proceedings against a person for an offence under this section it is a defence for the person to prove that—
  - (a) the works were urgently necessary in the interests of safety or health,
  - (b) the works carried out were limited to the minimum measures immediately necessary, and
  - (c) notice in writing justifying in detail the carrying out of the works was given to the Welsh Ministers as soon as reasonably practicable.
- (9) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.

#### **Commencement Information**

- II** S. 30 not in force at Royal Assent, see [s. 212\(2\)](#)

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