



Historic Environment (Wales) Act 2023

2023 asc 3

PROSPECTIVE

PART 3

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

CHAPTER 1

LISTING BUILDINGS OF SPECIAL INTEREST

List of buildings

76 Duty to maintain and publish list of buildings

- (1) The Welsh Ministers must maintain a list of buildings which must include every building in Wales they consider to be of special architectural or historic interest, and must publish the up-to-date list.
- (2) The Welsh Ministers may amend the list by—
 - (a) adding a building,
 - (b) removing a building, or
 - (c) amending the entry for a building.
- (3) In considering whether a building should be included in the list, the Welsh Ministers may take into account not only the building itself but also—
 - (a) any way in which the exterior of the building contributes to the architectural or historic interest of any group of buildings of which it forms part, and
 - (b) the desirability of preserving any artificial feature of the building on the ground of its architectural or historic interest.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (4) In subsection (3)(b) “artificial feature” means any feature of the building consisting of a structure or artificial object that—
- (a) is fixed to the building, or
 - (b) forms part of the land and is within the curtilage of the building.
- (5) In this Act “listed building” means a building included in the list maintained under this section, and includes—
- (a) any structure or artificial object that is fixed to the building and ancillary to it;
 - (b) any other structure or artificial object that—
 - (i) forms part of the land and has done so since before 1 July 1948, and
 - (ii) was within the curtilage of the building, and ancillary to it, on the date on which the building was first included in the list, or on 1 January 1969, whichever was later.
- (6) In this Part—
- (a) “listing” a building means amending the list by adding the building;
 - (b) “de-listing” a building means amending the list by removing the building.

Commencement Information

- II** S. 76 not in force at Royal Assent, see [s. 212\(2\)](#)

77 Notification of listing or de-listing of building

- (1) As soon as possible after the Welsh Ministers list or de-list a building, they must serve notice that they have done so on—
- (a) every owner and occupier of the building, and
 - (b) every relevant local authority in whose area the building is situated.
- (2) Where the Welsh Ministers have listed a building—
- (a) the notice must specify the date on which they did so, and
 - (b) they must include with the notice a copy of the entry for the building in the list maintained under section 76.
- (3) A copy of an entry served under this section is a local land charge, and for the purposes of the [Local Land Charges Act 1975 \(c. 76\)](#) the county council or county borough council on which the copy is served is the originating authority as respects the charge.
- (4) A relevant local authority must keep available for public inspection—
- (a) copies of entries in the list that have been served on it under this section, and
 - (b) copies of any parts of the list that were deposited with it under section 2(1) of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#) or a corresponding provision of any earlier Act, so far as those parts remain up-to-date.
- (5) The copies must be available for inspection—
- (a) free of charge,
 - (b) at reasonable times, and
 - (c) at a convenient place.
- (6) In this section “relevant local authority” means—

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- (a) a county council or county borough council;
- (b) a National Park authority;
- (c) a joint planning board.

Commencement Information

I2 S. 77 not in force at Royal Assent, see [s. 212\(2\)](#)

Proposals to list and de-list buildings: consultation and interim protection

78 Consultation before listing or de-listing building

- (1) Where the Welsh Ministers are proposing to list or de-list a building, they must serve a notice on the persons mentioned in subsection (2) which—
 - (a) sets out the proposed amendment to the list maintained under section 76, and
 - (b) invites those persons to make written representations about the proposal.
- (2) The persons are—
 - (a) every owner and occupier of the building,
 - (b) every planning authority in whose area the building is situated, and
 - (c) any other persons the Welsh Ministers consider appropriate as having special knowledge of, or special interest in, buildings of architectural or historic interest.
- (3) A notice under subsection (1) must—
 - (a) specify the period within which representations may be made, and
 - (b) in the case of a proposal to list a building—
 - (i) include a statement of the effect of section 79 (interim protection), and
 - (ii) specify the date on which interim protection takes effect under that section.
- (4) The period specified under subsection (3)(a) must be at least 28 days beginning with the day the notice is served.

Commencement Information

I3 S. 78 not in force at Royal Assent, see [s. 212\(2\)](#)

79 Interim protection pending decision whether to list building

- (1) This section applies where the Welsh Ministers serve notice under section 78(1) of a proposal to list a building.
- (2) From the beginning of the day specified under section 78(3)(b)(ii), this Act (except sections 118 and 137 to 142) and the [Town and Country Planning Act 1990 \(c. 8\)](#) have effect in relation to the building as if it were a listed building.
- (3) The protection conferred by virtue of subsection (2) is referred to in this Part as “interim protection”.

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- (4) The Welsh Ministers must—
- (a) publish a list of the buildings subject to interim protection, and
 - (b) provide a copy of the notice served under section 78(1) in respect of such a building to any person who requests one.
- (5) Interim protection ends in relation to a building—
- (a) where the Welsh Ministers list the building, at the beginning of the day specified in the notice under section 77(1);
 - (b) where the Welsh Ministers decide not to list the building, at the beginning of the day specified in a notice served on—
 - (i) every owner and occupier of the building, and
 - (ii) every planning authority in whose area the building is situated.
- (6) Schedule 7 makes provision about the effect of interim protection coming to an end under subsection (5)(b).
- (7) This section does not apply to a building which is a scheduled monument.

Commencement Information

I4 S. 79 not in force at Royal Assent, see [s. 212\(2\)](#)

80 Compensation for loss or damage caused by interim protection

- (1) This section applies where interim protection ends in relation to a building because the Welsh Ministers serve notice under section 79(5)(b) that they have decided not to list the building.
- (2) Any person who had an interest in the building when the interim protection took effect is entitled, on making a claim to the Welsh Ministers, to be paid compensation by them for any loss or damage suffered by the person that is directly attributable to the interim protection.
- (3) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by the need to stop or cancel works to the building because of the interim protection.
- (4) A claim for compensation under this section must be made in writing within 6 months beginning when the interim protection ends.
- (5) Where the building was previously subject to temporary listing under section 83 which ended because the interim protection took effect—
 - (a) the reference in subsection (2) to the time when the interim protection took effect is to be treated as a reference to the time when the temporary listing took effect;
 - (b) the reference in that subsection to loss or damage directly attributable to the interim protection includes loss or damage directly attributable to the temporary listing;
 - (c) the reference in subsection (3) to the need to stop or cancel works because of the interim protection includes the need to do so because of the temporary listing.

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Commencement Information

I5 S. 80 not in force at Royal Assent, see [s. 212\(2\)](#)

Review of listing decisions

81 Review of decision to list building

- (1) Where the Welsh Ministers list a building, the notice under section 77(1) must state that any owner or occupier of the building may make an application to the Welsh Ministers requesting a review of the decision.
- (2) An application may be made only on the ground that the building is not of special architectural or historic interest.
- (3) Where an owner or occupier makes an application for a review, the Welsh Ministers must appoint a person to—
 - (a) carry out the review, and
 - (b) make a decision on the review.
- (4) The Welsh Ministers may by regulations specify descriptions of cases in which they, instead of a person appointed by them, must carry out and make a decision on a review.
- (5) The Welsh Ministers must make any amendment to the list maintained under section 76 they consider appropriate to give effect to a decision on a review.
- (6) The Welsh Ministers may by regulations amend subsection (2) to—
 - (a) add a ground of review;
 - (b) modify a ground of review;
 - (c) remove a ground of review.

Commencement Information

I6 S. 81 not in force at Royal Assent, see [s. 212\(2\)](#)

82 Supplementary provision about reviews

- (1) The Welsh Ministers must by regulations make provision about—
 - (a) the form and way in which an application under section 81 must be made;
 - (b) the information that must be provided to, or may be required by, the Welsh Ministers in connection with an application;
 - (c) the period within which an application must be made.
- (2) A review under section 81 must be carried out in one or more of the following ways (as determined by the person carrying out the review)—
 - (a) by means of a local inquiry;
 - (b) by means of a hearing;
 - (c) on the basis of written representations.

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- (3) Where a review is carried out by a person appointed by the Welsh Ministers, the appointed person has the same powers and duties in relation to the review as the Welsh Ministers have under—
 - (a) any regulations made under section 175 (procedural requirements), and
 - (b) sections 180 and 181 (costs of Welsh Ministers and parties).
- (4) Where a review is carried out by means of a local inquiry, section 177 (power to require evidence) applies to the inquiry as it applies to an inquiry held under Part 5.
- (5) The Welsh Ministers may by regulations make further provision in connection with reviews under section 81.
- (6) Schedule 2 makes further provision about the functions of persons appointed by the Welsh Ministers to carry out reviews under section 81.

Commencement Information

I7 S. 82 not in force at Royal Assent, see [s. 212\(2\)](#)

Temporary listing

83 Service of temporary listing notice

- (1) This section applies if a planning authority considers that a building in its area which is not a listed building (and is not treated as one by virtue of section 79(2)) is—
 - (a) of special architectural or historic interest, and
 - (b) in danger of being demolished or of being altered in a way that would affect its character as a building of special architectural or historic interest.
- (2) The authority may serve a temporary listing notice on every owner and occupier of the building.
- (3) A temporary listing notice is a notice which—
 - (a) states that the planning authority—
 - (i) considers the building to be of special architectural or historic interest, and
 - (ii) has requested the Welsh Ministers to consider listing it, and
 - (b) explains the effect of subsection (4), section 85 and Schedule 7.
- (4) As soon as a temporary listing notice has been served on every owner and occupier of the building to which it relates, this Act (except sections 118 and 137 to 142) and the [Town and Country Planning Act 1990 \(c. 8\)](#) have effect in relation to the building as if it were a listed building.
- (5) The protection conferred by virtue of subsection (4) is referred to in this Part as “temporary listing”.
- (6) This section and section 84 do not apply to—
 - (a) a building which is a scheduled monument, or
 - (b) an exempt religious building.

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Commencement Information

18 S. 83 not in force at Royal Assent, see [s. 212\(2\)](#)

84 Temporary listing in urgent cases

- (1) This section applies if a planning authority considers it urgent that temporary listing should take effect in relation to a building in its area.
- (2) The authority may, instead of serving a temporary listing notice on each owner and occupier of the building—
 - (a) attach the notice conspicuously to the building, or
 - (b) if it is not reasonably practicable to attach the notice to the building, or the authority considers that doing so might damage the building, display the notice in a prominent place as near to the building as is reasonably practicable.
- (3) Attaching or displaying a notice in accordance with subsection (2) is to be treated for the purposes of section 83(4) as serving the notice on every owner and occupier of the building.
- (4) The notice must explain that by virtue of having been attached or displayed in accordance with subsection (2) the notice is treated as having been served for those purposes.

Commencement Information

19 S. 84 not in force at Royal Assent, see [s. 212\(2\)](#)

85 End of temporary listing

- (1) Temporary listing of a building has effect until the end of the 6 months beginning with the day it takes effect under section 83(4), unless it ends under subsection (2) or (3).
- (2) If the Welsh Ministers serve notice under section 78(1) of a proposal to list the building, temporary listing ends when interim protection takes effect in relation to the building (and the building continues to be treated as if it were a listed building for certain purposes by virtue of section 79(2)).
- (3) If the Welsh Ministers notify the planning authority in writing that they do not intend to consult under section 78 on a proposal to list the building, temporary listing ends at the beginning of the day specified in the notification.
- (4) Schedule 7 makes provision about the effect of temporary listing coming to an end—
 - (a) at the end of the 6-month period mentioned in subsection (1), or
 - (b) because the Welsh Ministers give notification under subsection (3) that they do not intend to consult on a proposal to list the building.
- (5) If temporary listing ends in relation to a building because the Welsh Ministers notify the planning authority that they do not intend to consult on a proposal to list the building—
 - (a) the authority must immediately give notice of that decision to every owner and occupier of the building;

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- (b) the authority may not serve another temporary listing notice in respect of the building during the 12 months beginning with the day the Welsh Ministers give the notification.

Commencement Information

I10 S. 85 not in force at Royal Assent, see [s. 212\(2\)](#)

86 Compensation for loss or damage caused by temporary listing

- (1) This section applies where temporary listing ends in relation to a building—
- (a) at the end of the 6-month period mentioned in section 85(1), or
 - (b) because the Welsh Ministers give notification under section 85(3) that they do not intend to consult on a proposal to list the building.
- (2) Any person who had an interest in the building when the temporary listing took effect is entitled, on making a claim to the planning authority in whose area the building is situated, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the temporary listing.
- (3) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by the need to stop or cancel works to the building because of the temporary listing.
- (4) A claim for compensation under this section must be made in writing within 6 months beginning when the temporary listing ends.

Commencement Information

I11 S. 86 not in force at Royal Assent, see [s. 212\(2\)](#)

Buildings not intended to be listed

87 Certificate that Welsh Ministers do not intend to list building

- (1) The Welsh Ministers may, on the application of any person, issue a certificate stating that they do not intend to list a building.
- (2) During the 5 years beginning with the day the certificate is issued—
- (a) the Welsh Ministers may not list the building or serve notice under section 78(1) of a proposal to list the building;
 - (b) a planning authority in whose area the building is situated may not serve a temporary listing notice in relation to the building.
- (3) An applicant for a certificate must give notice of the application to every planning authority in whose area the building is situated at the same time as submitting the application to the Welsh Ministers.

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Commencement Information

I12 S. 87 not in force at Royal Assent, see [s. 212\(2\)](#)

CHAPTER 2

CONTROL OF WORKS AFFECTING LISTED BUILDINGS

Authorisation of works

88 Requirement for works to be authorised

- (1) A person must not carry out works to which this section applies, or cause such works to be carried out, unless the works are authorised under section 89.
- (2) This section applies to—
 - (a) works for the alteration or extension of a listed building in any way that would affect its character as a building of special architectural or historic interest;
 - (b) works for the demolition of a listed building.
- (3) But this section does not apply to—
 - (a) works in relation to a building which is a scheduled monument (but see section 11);
 - (b) works in relation to an exempt religious building;
 - (c) works for the demolition of a building closed for regular public worship, or a part of such a building, in accordance with provision made under Part 6 of the [Mission and Pastoral Measure 2011 \(No. 3\)](#) by a pastoral church buildings scheme or a pastoral (church buildings disposal) scheme;
 - (d) works carried out by or on behalf of the Crown in the circumstances set out in paragraphs (a) to (d) of section 117(4) (emergency works).

Commencement Information

I13 S. 88 not in force at Royal Assent, see [s. 212\(2\)](#)

89 Authorisation of works by listed building consent

- (1) Works to which section 88 applies are authorised if—
 - (a) written consent to carry them out has been granted by the planning authority in whose area the building is situated or the Welsh Ministers, and
 - (b) the works are carried out in accordance with the terms of the consent (including any conditions attached to it).
- (2) Where—
 - (a) works to which section 88 applies have been carried out without being authorised under subsection (1), and
 - (b) the planning authority or the Welsh Ministers grant written consent for the works,

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the works are authorised from the grant of that consent.

(3) Consent under subsection (1) or (2) is referred to in this Act as listed building consent.

Commencement Information

I14 S. 89 not in force at Royal Assent, see [s. 212\(2\)](#)

Applications for listed building consent

90 Applying for listed building consent

- (1) An application for listed building consent must be made to the planning authority in whose area the listed building is situated, unless it is made to the Welsh Ministers in accordance with—
 - (a) regulations made under section 105 (applications by planning authorities or the Crown),
 - (b) section 106 (applications relating to urgent works on Crown land),
 - (c) section 305 or 306 of the [Housing Act 1985 \(c. 68\)](#) (applications by local housing authorities for consent to demolish buildings in connection with acquisition of land for clearance), or
 - (d) any other enactment.
- (2) An application for listed building consent must contain—
 - (a) enough information to identify the listed building to which it relates, including a plan,
 - (b) any other plans and drawings that are necessary to describe the works to which it relates, and
 - (c) any other information required by the planning authority or the Welsh Ministers (as the case may be).
- (3) The Welsh Ministers may by regulations make provision about—
 - (a) the form and content of an application (which may include provision for using a form to be published or provided by the Welsh Ministers or another person);
 - (b) how an application must be made.
- (4) The Welsh Ministers must by regulations require a person who makes an application of a description specified in the regulations to include with the application a statement about—
 - (a) how the works will affect the character of the listed building as a building of special architectural or historic interest, and
 - (b) either or both of the following (as specified in the regulations)—
 - (i) the design principles that have been applied to the works;
 - (ii) how issues relating to access to the building have been dealt with.
- (5) The Welsh Ministers may by regulations make provision about—
 - (a) the form and content of a statement required under subsection (4);
 - (b) other documents or materials that must be included with an application.

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- (6) A planning authority must not consider an application made to it for listed building consent if the application fails to comply with a requirement imposed by or under this section.

Commencement Information

I15 S. 90 not in force at Royal Assent, see [s. 212\(2\)](#)

91 Notice of application to owners of building

- (1) The Welsh Ministers may by regulations require an applicant for listed building consent—
- (a) to give notice of the application to every person (other than the applicant) who on a date specified in the regulations is an owner of any part of the listed building to which the application relates, and
 - (b) to include with the application a certificate issued by the applicant stating that any requirements of the regulations have been complied with.
- (2) The regulations may make provision about—
- (a) the form and content of a notice or certificate (which may include provision for using a form to be published or provided by the Welsh Ministers or another person);
 - (b) how notice must be given (which may include provision requiring it to be published).
- (3) An application for listed building consent must not be considered if any requirements imposed under subsection (1) or (2) have not been complied with.
- (4) The Welsh Ministers may by regulations provide that, where notice has been given of an application in accordance with requirements imposed under those subsections—
- (a) the application must not be determined during a period specified in the regulations;
 - (b) the planning authority or the Welsh Ministers must, in determining the application, take account of representations made during that period by any person who is an owner of any part of the listed building.
- (5) It is an offence for a person in purported compliance with a requirement imposed under subsection (1) or (2)—
- (a) to issue a certificate containing a statement which the person knows to be false or misleading in a material respect, or
 - (b) to recklessly issue a certificate containing a statement which is false or misleading in a material respect.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) In this section “owner” means—
- (a) an owner of the freehold estate, or
 - (b) a tenant under a lease granted or extended for a fixed term that has at least 7 years left to run.

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Commencement Information

I16 S. 91 not in force at Royal Assent, see [s. 212\(2\)](#)

Dealing with applications for consent

92 Procedure for dealing with application

- (1) A planning authority must deal with an application for listed building consent made to the authority unless—
 - (a) it is required not to consider the application under section 90(6) or 91(3), or refuses to do so under section 93 (similar applications), or
 - (b) it is required to refer the application to the Welsh Ministers under section 94.
- (2) The Welsh Ministers may by regulations—
 - (a) impose requirements relating to publicity for applications for listed building consent made to planning authorities or the Welsh Ministers;
 - (b) impose requirements for consultation or notification in relation to applications;
 - (c) provide that an application must not be determined during a period specified in the regulations;
 - (d) require planning authorities or the Welsh Ministers, in determining applications, to take account of responses from persons consulted or notified;
 - (e) make provision about the time within which a planning authority or the Welsh Ministers must deal with an application.
- (3) The Welsh Ministers may direct a planning authority to notify persons specified in the direction of—
 - (a) an application made to the authority for listed building consent, and
 - (b) the decision taken by the authority on the application.
- (4) A direction may relate to—
 - (a) a particular case, or
 - (b) cases of a description specified in the direction.

Commencement Information

I17 S. 92 not in force at Royal Assent, see [s. 212\(2\)](#)

93 Power to refuse to consider similar applications

- (1) A planning authority may refuse to consider an application for listed building consent if the first and second conditions are met.
- (2) The first condition is that in the 2 years ending with the day the authority receives the application any of the following has occurred—
 - (a) the Welsh Ministers have refused a similar application for listed building consent referred to them under section 94,
 - (b) the Welsh Ministers have dismissed—

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- (i) an appeal under section 100(2) against the refusal of a similar application for listed building consent, or
- (ii) an appeal under section 100(3) relating to a similar application, or
- (c) the planning authority has refused two or more similar applications for listed building consent and in each case—
 - (i) there has been no appeal to the Welsh Ministers, or
 - (ii) any appeal to the Welsh Ministers has been withdrawn.
- (3) The second condition is that the planning authority considers that there has been no significant change in any relevant considerations since—
 - (a) the Welsh Ministers refused the similar application, in a case falling within subsection (2)(a),
 - (b) the Welsh Ministers dismissed the appeal, in a case falling within subsection (2)(b), or
 - (c) the planning authority most recently refused a similar application, in a case falling within subsection (2)(c).
- (4) For the purposes of this section an application is similar to another application if (and only if) the planning authority considers that the listed building and works to which the applications relate are the same or substantially the same.

Commencement Information

I18 S. 93 not in force at Royal Assent, see [s. 212\(2\)](#)

94 Reference of application to Welsh Ministers

- (1) The Welsh Ministers may direct a planning authority to refer an application for listed building consent to them for determination instead of dealing with the application itself.
- (2) A direction may relate to a particular application, or to applications in relation to buildings specified in the direction.
- (3) A planning authority must refer an application to which a direction under this section applies to the Welsh Ministers.
- (4) A planning authority must refer an application for listed building consent to the Welsh Ministers for determination, without being directed to do so, if the consent is sought in consequence of proposals included in an application for an order under section 1 or 3 of the [Transport and Works Act 1992 \(c. 42\)](#) (orders relating to construction or operation of railways, tramways, inland waterways etc.).
- (5) Chapter 2 of Part 5 makes provision about the procedure for the consideration of applications referred to the Welsh Ministers under this section.
- (6) The decision of the Welsh Ministers on an application is final.

Commencement Information

I19 S. 94 not in force at Royal Assent, see [s. 212\(2\)](#)

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

95 Notification to Welsh Ministers before granting consent

- (1) A planning authority to which an application for listed building consent is made may not grant consent unless—
 - (a) it has notified the Welsh Ministers of the application, giving details of the works for which consent is sought, and
 - (b) the first or second condition is met.
- (2) The first condition is that the 28 days beginning with the day the Welsh Ministers were notified have ended without the Welsh Ministers either—
 - (a) directing the authority to refer the application to them under section 94, or
 - (b) notifying the authority that they need more time to consider whether to give a direction under that section.
- (3) The second condition is that the Welsh Ministers have notified the authority that they do not intend to direct it to refer the application to them.
- (4) The Welsh Ministers may by regulations provide that subsection (1) does not apply to applications for listed building consent of a description specified in the regulations.
- (5) The Welsh Ministers may direct a planning authority—
 - (a) that subsection (1) is not to apply to an application to the authority for listed building consent, or
 - (b) that subsection (1) is to apply to an application to the authority despite any provision made by regulations under subsection (4) or by a direction under paragraph (a).
- (6) A direction may relate to—
 - (a) a particular application for listed building consent, or
 - (b) applications of a description specified in the direction,
 and has effect in relation to any application that the authority has not determined.
- (7) The Welsh Ministers may specify a description of applications under subsection (4) or (6)(b) by reference to the opinion of any person, the availability of specialist advice in relation to the applications, or any other circumstance.

Commencement Information

I20 S. 95 not in force at Royal Assent, see [s. 212\(2\)](#)

96 Grant or refusal of consent

- (1) On determining an application for listed building consent, a planning authority or the Welsh Ministers may grant or refuse consent.
- (2) In considering whether to grant listed building consent, a planning authority or the Welsh Ministers must have special regard to the desirability of preserving—
 - (a) the listed building to which the application relates,
 - (b) the setting of the building, and
 - (c) any features of special architectural or historic interest the building possesses.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (3) Listed building consent has effect for the benefit of the listed building and the land on which it is situated, and of all persons for the time being interested in the building and land; but this is subject to the terms of the consent.

Commencement Information

I21 S. 96 not in force at Royal Assent, see [s. 212\(2\)](#)

Grant of listed building consent subject to conditions

97 Power to grant consent subject to conditions

- (1) Listed building consent may be granted subject to conditions.
- (2) A condition may, for example, require—
- (a) particular features of the listed building to be preserved, either as part of it or after severance from it;
 - (b) any damage caused to the building by the works to be made good after the works are completed;
 - (c) the building or any part of it to be reconstructed after any works are carried out, using original materials so far as practicable and making any alterations to the interior of the building specified in the conditions.
- (3) Consent may also be granted subject to a condition requiring specified details of the works (whether or not set out in an application for consent) to be approved later.
- (4) A condition imposed under subsection (3) must—
- (a) in the case of consent granted by a planning authority, require the approval of that authority;
 - (b) in the case of consent granted by the Welsh Ministers, specify whether the approval required is that of the planning authority or the Welsh Ministers.
- (5) Consent for the demolition of a listed building must be granted subject to a condition that the works must not start until—
- (a) notice of the proposal to demolish the building has been given to the Royal Commission on the Ancient and Historical Monuments of Wales, and
 - (b) after the giving of that notice, the Royal Commission—
 - (i) has been given reasonable access to the building for at least 1 month for the purpose of recording it, or
 - (ii) has stated in writing that it has completed its recording of the building or does not wish to record it.
- (6) If consent for the demolition of a listed building is granted without the condition required by subsection (5), it is to be treated as having been granted subject to that condition.
- (7) Consent for the demolition of a listed building may also be granted subject to a condition that the works must not start until—
- (a) a contract for works to redevelop the site has been made, and
 - (b) planning permission has been granted for those redevelopment works.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (8) Subsections (5) and (6) do not prevent the imposition of other conditions for the purpose of enabling a listed building to be recorded.
- (9) The Welsh Ministers may by regulations replace the references in subsection (5) to the Royal Commission on the Ancient and Historical Monuments of Wales with references to another body.

Commencement Information

I22 S. 97 not in force at Royal Assent, see [s. 212\(2\)](#)

98 Condition about period within which works must start

- (1) Listed building consent must be granted subject to the condition that the works to which it relates must start before the end of a period which is specified in the condition and begins with the day the consent is granted.
- (2) If consent is granted without the condition required by subsection (1), it is to be treated as having been granted subject to the condition that the works to which it relates must start within 5 years beginning with the day it was granted.
- (3) This section does not apply to—
- (a) consent under section 89(2) (consent for works already carried out);
 - (b) consent granted by a listed building partnership agreement (see section 113).

Commencement Information

I23 S. 98 not in force at Royal Assent, see [s. 212\(2\)](#)

99 Application for variation or removal of conditions

- (1) Where listed building consent has been granted subject to conditions, any person interested in the listed building may apply for the variation or removal of the conditions.
- (2) The application must indicate what variation or removal of conditions is applied for.
- (3) Sections 90 to 95 (except section 90(4) and (5)(a)) apply to an application under this section as they apply to an application for listed building consent.
- (4) On an application under this section the planning authority or the Welsh Ministers may, in addition to varying or removing the conditions of the consent, impose new conditions that are consequential on the variation or removal.
- (5) This section does not apply to consent granted by a listed building partnership agreement.

Commencement Information

I24 S. 99 not in force at Royal Assent, see [s. 212\(2\)](#)

*Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)*

Appeals to the Welsh Ministers

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

- (1) This section applies where an application has been made to a planning authority for—
 - (a) listed building consent,
 - (b) the variation or removal of conditions of listed building consent, or
 - (c) approval of details of works under a condition of listed building consent.
- (2) The applicant may appeal to the Welsh Ministers if the planning authority—
 - (a) refuses the application, or
 - (b) grants the application subject to conditions or, in the case of an application for the variation or removal of conditions, grants it and imposes new conditions.
- (3) The applicant may also appeal to the Welsh Ministers if the planning authority has done none of the following within the determination period—
 - (a) given notice to the applicant of its decision on the application, or
 - (b) in the case of an application for listed building consent or for the variation or removal of conditions, given notice to the applicant that it has—
 - (i) exercised its power under section 93 to refuse to consider the application, or
 - (ii) referred the application to the Welsh Ministers under section 94.
- (4) In subsection (3) “the determination period” means—
 - (a) the period specified in regulations made by the Welsh Ministers, or
 - (b) a longer period agreed in writing between the applicant and the planning authority.

Commencement Information

I25 S. 100 not in force at Royal Assent, see [s. 212\(2\)](#)

101 Procedure for making appeal

- (1) An appeal under section 100 must be made by serving a notice of appeal on the Welsh Ministers.
- (2) The grounds of appeal stated in the notice may include (alone or with other grounds)—
 - (a) a claim that the building to which the appeal relates is not of special architectural or historic interest and ought to be de-listed, or
 - (b) in the case of a building subject to interim protection or temporary listing, a claim that the building should not be listed.
- (3) The Welsh Ministers may by regulations make provision about—
 - (a) the form of a notice of appeal (which may include provision for using a form to be published or provided by the Welsh Ministers or another person);
 - (b) information that must be included with a notice of appeal;
 - (c) the way in which, and period within which, a notice of appeal must be served (which may include provision enabling the Welsh Ministers to extend the period).

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (4) Section 91 (notice to owners of building) applies in relation to appeals under section 100 relating to applications for listed building consent or for the variation or removal of conditions, but as if references to an application and an applicant were references to an appeal and an appellant.
- (5) The period specified by regulations under subsection (3)(c) must be at least 28 days beginning with the day after—
 - (a) in the case of an appeal under subsection (2) of section 100, the day the applicant receives notice of the decision;
 - (b) in the case of an appeal under subsection (3) of that section, the end of the determination period (which has the same meaning as in that subsection).

Commencement Information

I26 S. 101 not in force at Royal Assent, see [s. 212\(2\)](#)

102 Restriction on varying application after service of notice of appeal

- (1) Once notice of an appeal under section 100 has been served, the application to which the appeal relates may not be varied except in circumstances specified in regulations made by the Welsh Ministers.
- (2) Where an application is varied under this section, the Welsh Ministers may direct that further consultation must be carried out in relation to the application.

Commencement Information

I27 S. 102 not in force at Royal Assent, see [s. 212\(2\)](#)

103 Decision on application after service of notice of appeal

- (1) This section applies if a person who has made an application for listed building consent appeals under section 100(3) (failure to give notice of decision).
- (2) The Welsh Ministers must not determine the appeal before the end of the period which is specified in regulations made by the Welsh Ministers and begins with the day the notice of appeal is served.
- (3) The planning authority may give notice of its decision on the application to which the appeal relates at any time before the end of that period.
- (4) If the authority gives notice in accordance with subsection (3) that its decision is to refuse the application—
 - (a) the appeal must be treated as an appeal under section 100(2) against the refusal, and
 - (b) the Welsh Ministers must give the appellant the opportunity to revise the grounds of appeal.
- (5) If the authority gives notice in accordance with subsection (3) that its decision is to grant the application subject to conditions, the Welsh Ministers must give the appellant the opportunity—

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (a) to proceed with the appeal as an appeal under section 100(2) against the grant of the application subject to conditions, and
- (b) to revise the grounds of the appeal.

Commencement Information

I28 S. 103 not in force at Royal Assent, see [s. 212\(2\)](#)

104 Determination of appeal

- (1) On an appeal under section 100 the Welsh Ministers may—
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the planning authority’s decision on the application to which the appeal relates (whether or not the appeal relates to that part),
 and may deal with the application as if it had been made to them.
- (2) Where the appeal was made under section 100(3) (failure to give notice of decision) and the planning authority has not given notice under section 103(3), it is to be assumed for the purposes of subsection (1) that the authority decided to refuse the application.
- (3) On an appeal under section 100 the Welsh Ministers may also exercise their power under section 76 to de-list the building to which the appeal relates.
- (4) Chapter 2 of Part 5 makes provision about the procedure for the consideration of appeals (including provision for them to be determined by persons appointed by the Welsh Ministers).
- (5) The decision of the Welsh Ministers on an appeal is final.

Commencement Information

I29 S. 104 not in force at Royal Assent, see [s. 212\(2\)](#)

Special cases

105 Applications by planning authorities and the Crown

- (1) The Welsh Ministers may by regulations provide that any provision made by or under this Act is not to apply, or is to apply with modifications, to an application mentioned in subsection (2) that is made—
 - (a) by a planning authority, or
 - (b) by or on behalf of the Crown.
- (2) The applications referred to in subsection (1) are applications for—
 - (a) listed building consent,
 - (b) the variation or removal of conditions of listed building consent, or
 - (c) approval of details of works under a condition of listed building consent.
- (3) The regulations may, in particular, provide for an application to be made to the Welsh Ministers.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

*Changes to legislation: There are currently no known outstanding effects for the
Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)*

Commencement Information

I30 S. 105 not in force at Royal Assent, see [s. 212\(2\)](#)

106 Applications relating to urgent works on Crown land

- (1) The appropriate Crown authority may make an application for listed building consent to the Welsh Ministers (instead of to a planning authority) if—
 - (a) the listed building to which the application relates is on Crown land, and
 - (b) the appropriate Crown authority certifies—
 - (i) that the works for which consent is sought are of national importance, and
 - (ii) that it is necessary that the works are carried out as a matter of urgency.
- (2) Before making the application, the appropriate Crown authority must publish in one or more newspapers circulating in the locality of the listed building a notice—
 - (a) describing the proposed works, and
 - (b) stating that it proposes to make the application to the Welsh Ministers under this section.
- (3) Where the appropriate Crown authority makes an application under this section—
 - (a) it must give the Welsh Ministers a statement of its grounds for making the application;
 - (b) the Welsh Ministers may require it to give them any further information they consider necessary to enable them to determine the application.
- (4) As soon as practicable after receiving a document or other material by virtue of subsection (3), the Welsh Ministers must make a copy of the document or other material available for inspection by the public in the locality of the proposed works.
- (5) The Welsh Ministers must, in accordance with any requirements imposed by regulations, publish notice of the application and of the fact that documents and other material are available for inspection.
- (6) The Welsh Ministers must consult the following persons about the application—
 - (a) the planning authority in whose area the listed building is situated, and
 - (b) any other person that may be specified in regulations.
- (7) Chapter 2 of Part 5 makes provision about the procedure for the consideration of applications made to the Welsh Ministers under this section.
- (8) Subsection (4) does not apply to the extent that a document or other material is subject to a direction under section 178 (restriction of access to evidence on national security grounds).
- (9) The decision of the Welsh Ministers on an application is final.
- (10) In this section references to regulations are to regulations made by the Welsh Ministers.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

Commencement Information

I31 S. 106 not in force at Royal Assent, see [s. 212\(2\)](#)

Modification and revocation of listed building consent

107 Modification and revocation of consent

- (1) Where listed building consent has been granted on an application or appeal under this Part, the planning authority in whose area the listed building is situated or the Welsh Ministers may by order modify or revoke the consent to any extent.
- (2) An order modifying or revoking listed building consent for any works may be made at any time before the works are completed, but does not affect consent for works carried out before the order takes effect.
- (3) In Schedule 8—
 - (a) Part 1 makes provision about the procedures that must be followed before an order made by a planning authority under this section takes effect (either with or without confirmation by the Welsh Ministers);
 - (b) Part 2 makes provision about the procedure that must be followed before the Welsh Ministers make an order under this section.

Commencement Information

I32 S. 107 not in force at Royal Assent, see [s. 212\(2\)](#)

108 Compensation where consent is modified or revoked

- (1) This section applies where listed building consent is modified or revoked by an order under section 107 that is—
 - (a) made by a planning authority and confirmed by the Welsh Ministers, or
 - (b) made by the Welsh Ministers.
- (2) Any person interested in the listed building to which the consent relates is entitled, on making a claim to the planning authority, to be paid compensation by the authority for—
 - (a) any expenditure incurred by the person in carrying out works that become abortive because of the modification or revocation of the consent;
 - (b) any other loss or damage suffered by the person that is directly attributable to the modification or revocation.
- (3) For the purposes of this section expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works.
- (4) Subject to that, no compensation is payable under this section in respect of—
 - (a) works carried out before the grant of the listed building consent that is modified or revoked, or

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Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the consent was granted.
- (5) A claim for compensation under this section must be made in writing within 6 months beginning with the day the modification or revocation of the consent takes effect.
- (6) In subsection (2) “the planning authority” means—
 - (a) the planning authority that made the order under section 107, or
 - (b) if the order was made by the Welsh Ministers, the planning authority in whose area the listed building to which the order relates is situated.

Commencement Information

I33 S. 108 not in force at Royal Assent, see [s. 212\(2\)](#)

Right of owner of listed building to require purchase of interest

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

- (1) This section applies where—
 - (a) on an application for listed building consent, consent is refused or is granted subject to conditions, or
 - (b) an order under section 107 modifies or revokes listed building consent.
- (2) If an owner of the listed building to which the application or order relates claims—
 - (a) that the first set of conditions is met in relation to the building, and
 - (b) that the first and second sets of conditions are met in relation to any associated land,
 the owner may serve a purchase notice on the planning authority in whose area the listed building is situated.
- (3) A purchase notice is a notice requiring the planning authority to purchase the owner’s interest in the listed building and associated land.
- (4) The first set of conditions is—
 - (a) that the listed building and associated land in respect of which the notice is served are unusable in their existing state,
 - (b) in a case where listed building consent has been granted subject to conditions or has been modified by the imposition of conditions, that the building and land cannot be made usable by carrying out the works to which the consent relates in accordance with the conditions, and
 - (c) in any case, that the building and land cannot be made usable by carrying out any other works for which listed building consent has been granted or for which the planning authority or the Welsh Ministers have undertaken to grant listed building consent.
- (5) The second set of conditions is—
 - (a) that the use of the associated land is substantially inseparable from the use of the listed building, and

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Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (b) that the associated land ought to be treated, together with the building, as a single holding.
- (6) In this section and Schedule 9—
- “associated land” (“*tir cysylltiedig*”), in relation to a listed building, means land which—
- (a) includes, adjoins or is adjacent to the building, and
- (b) is owned with the building;
- “usable” (“*defnyddiadwy*”), in relation to a listed building or associated land, means capable of reasonably beneficial use.
- (7) In determining whether a listed building and associated land are usable in their existing state, a prospective use of the building or land must be ignored if it would involve—
- (a) carrying out works requiring listed building consent which has not been granted and which neither a planning authority nor the Welsh Ministers have undertaken to grant, or
- (b) carrying out development for which planning permission has not been granted and for which neither a planning authority nor the Welsh Ministers have undertaken to grant permission.
- (8) A listed building is not unusable in its existing state if—
- (a) the existing state of the building was caused by a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted, and
- (b) the building could be made usable by taking steps that are or could be required by an enforcement notice under section 123.

Commencement Information

I34 S. 109 not in force at Royal Assent, see [s. 212\(2\)](#)

110 Purchase notice in respect of Crown land

- (1) The owner of a private interest in Crown land may not serve a purchase notice in respect of that interest unless—
- (a) the owner has offered to dispose of the interest to the appropriate Crown authority for a price that is equal to (and if not agreed, is to be determined in the same way as) the compensation that would be payable for the interest if it were acquired in pursuance of a purchase notice, and
- (b) the appropriate Crown authority has refused the offer.
- (2) Only the appropriate Crown authority may serve a purchase notice in respect of a Crown interest or Duchy interest in land which—
- (a) forms part of the Crown Estate,
- (b) belongs to His Majesty in right of His private estates,
- (c) belongs to His Majesty in right of the Duchy of Lancaster, or
- (d) belongs to the Duchy of Cornwall.
- (3) A purchase notice may not be served in respect of a Crown interest or Duchy interest in any other land.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

Commencement Information

I35 S. 110 not in force at Royal Assent, see [s. 212\(2\)](#)

111 Further provision about service of purchase notice

- (1) A purchase notice must be served within 12 months beginning with—
 - (a) in the case of a notice relating to a decision to refuse listed building consent or grant it subject to conditions, the day the decision is made, or
 - (b) in the case of a notice relating to an order under section 107 modifying or revoking listed building consent, the day the order takes effect.
- (2) In a case where the Welsh Ministers determine an appeal against a decision of a planning authority to refuse listed building consent or grant it subject to conditions, the reference in subsection (1)(a) to the day the decision is made is to be read as a reference to the day the Welsh Ministers determine the appeal.
- (3) The Welsh Ministers may at any time extend the period for serving a purchase notice in a particular case, if they are satisfied that there are good reasons for doing so.
- (4) The Welsh Ministers may by regulations make provision about how a purchase notice must be served.
- (5) Where a repairs notice has been served on an owner of a listed building under section 138, the owner is not entitled to serve a purchase notice in respect of the building—
 - (a) before the end of 3 months beginning with the day the repairs notice is served, or
 - (b) if during that period the compulsory acquisition of the building is started under section 137, unless the compulsory acquisition is discontinued.
- (6) An owner of a listed building who has served a purchase notice may not amend the notice; but that does not prevent the owner serving a further purchase notice relating to the same decision or order.
- (7) If an owner serves a further purchase notice relating to the same decision or order, the earlier notice is to be treated as withdrawn unless the later notice states that the owner does not intend to withdraw it.
- (8) For the purposes of subsection (5)—
 - (a) a compulsory acquisition is started—
 - (i) by a planning authority when it serves the notice required by section 12 of the [Acquisition of Land Act 1981 \(c. 67\)](#);
 - (ii) by the Welsh Ministers when they serve the notice required by paragraph 3(1) of Schedule 1 to that Act;
 - (b) a compulsory acquisition is discontinued—
 - (i) in the case of an acquisition by a planning authority, when the compulsory purchase order is withdrawn or the Welsh Ministers decide not to confirm it;
 - (ii) in the case of an acquisition by the Welsh Ministers, when they decide not to make the compulsory purchase order.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

*Changes to legislation: There are currently no known outstanding effects for the
Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)*

Commencement Information

I36 S. 111 not in force at Royal Assent, see [s. 212\(2\)](#)

112 Action following service of purchase notice

Schedule 9 makes provision about the action to be taken by planning authorities and the Welsh Ministers following the service of a purchase notice.

Commencement Information

I37 S. 112 not in force at Royal Assent, see [s. 212\(2\)](#)

CHAPTER 3

LISTED BUILDING PARTNERSHIP AGREEMENTS

113 Listed building partnership agreements

- (1) A planning authority may make an agreement under this section with any owner of a listed building, or part of a listed building, situated in its area.
- (2) Any of the following persons may also be a party to the agreement (in addition to the owner and the authority)—
 - (a) the Welsh Ministers;
 - (b) any occupier of the building;
 - (c) any other person who has an interest in the building;
 - (d) any person involved in the management of the building;
 - (e) any other person the planning authority considers appropriate as having special knowledge of, or special interest in, the building or in buildings of architectural or historic interest more generally.
- (3) The Welsh Ministers may make an agreement under this section with any owner of a listed building or part of a listed building.
- (4) Any of the following persons may also be a party to the agreement (in addition to the owner and the Welsh Ministers)—
 - (a) any planning authority in whose area the building or part is situated;
 - (b) any occupier of the building;
 - (c) any other person who has an interest in the building;
 - (d) any person involved in the management of the building;
 - (e) any other person the Welsh Ministers consider appropriate as having special knowledge of, or special interest in, the building or in buildings of architectural or historic interest more generally.
- (5) An agreement under this section is referred to in this Act as a “listed building partnership agreement”.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (6) A listed building partnership agreement may grant listed building consent under section 89(1) for specified works for the alteration or extension of the listed building to which the agreement relates.
- (7) Where a listed building partnership agreement grants listed building consent subject to conditions, the agreement must specify those conditions.
- (8) A listed building partnership agreement may also—
- (a) specify works that would or would not, in the view of the parties, affect the character of the listed building as a building of special architectural or historic interest;
 - (b) make provision about the maintenance and preservation of the building;
 - (c) make provision about the carrying out of specified works, or the doing of any specified thing, in relation to the building;
 - (d) provide for public access to the building and the provision of associated facilities, information or services to the public;
 - (e) restrict access to, or use of, the building;
 - (f) prohibit the doing of any specified thing in relation to the building;
 - (g) provide for a planning authority or the Welsh Ministers to make payments of specified amounts and on specified terms—
 - (i) for or towards the costs of any works provided for under the agreement, or
 - (ii) in consideration of any restriction, prohibition or obligation accepted by any other party to the agreement.
- (9) A listed building partnership agreement may relate to more than one listed building or part of a listed building, but only if the parties to the agreement include in relation to each building or part—
- (a) an owner of that building or part, and
 - (b) the planning authority in whose area that building or part is situated or the Welsh Ministers.
- (10) In this section—
- “owner” (“*perchennog*”), in relation to a listed building or part of a listed building, means—
- (a) an owner of the freehold estate in the building or part, or
 - (b) a tenant under a lease of the building or part granted or extended for a fixed term that has at least 7 years left to run;
- “specified” (“*penodedig*”) means specified or described in a listed building partnership agreement.

Commencement Information

I38 S. 113 not in force at Royal Assent, see [s. 212\(2\)](#)

114 Further provision about listed building partnership agreements

- (1) A listed building partnership agreement must be in writing.
- (2) A listed building partnership agreement must—

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (a) contain enough information to identify the listed building to which it relates, including a plan;
 - (b) contain any other plans and drawings that are necessary to describe any works to which it relates;
 - (c) specify the date on which it takes effect and its duration;
 - (d) make provision for the parties to review the terms of the agreement at intervals specified in it;
 - (e) make provision for its variation (but this is subject to regulations under subsection (5));
 - (f) make provision for its termination (but this is subject to section 115).
- (3) A listed building partnership agreement may contain incidental and consequential provision.
- (4) The Welsh Ministers may by regulations specify other terms that must be included in a listed building partnership agreement.
- (5) The Welsh Ministers must by regulations make provision about—
- (a) the consultation that must take place before a listed building partnership agreement is made or varied;
 - (b) the publicity that must be given to a listed building partnership agreement before or after it is made or varied.
- (6) In considering whether to make a listed building partnership agreement that grants listed building consent, or vary an agreement so that it grants consent, a planning authority or the Welsh Ministers must have special regard to the desirability of preserving—
- (a) the listed building to which the agreement relates,
 - (b) the setting of the building, and
 - (c) any features of special architectural or historic interest the building possesses.
- (7) A listed building partnership agreement may not impose any obligation or liability, or confer any right, on a person who is not a party to the agreement; and listed building consent granted by such an agreement has effect only for the benefit of the parties to it.
- (8) The Welsh Ministers may by regulations—
- (a) disapply, or apply or reproduce with or without modifications, any provision of sections 90 to 104 (granting listed building consent) or Chapter 4 (enforcement) for the purposes of listed building partnership agreements, and
 - (b) provide for any other provision of this Act to apply with modifications that are consequential on provision made under paragraph (a).

Commencement Information

I39 S. 114 not in force at Royal Assent, see [s. 212\(2\)](#)

115 Termination of agreement or provision of agreement

- (1) A planning authority may by order terminate a listed building partnership agreement to which it is a party or any provision of such an agreement.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (2) The Welsh Ministers may by order terminate a listed building partnership agreement (whether or not they are a party to it) or any provision of such an agreement.
- (3) An order under this section may contain supplementary, incidental, transitory, transitional or saving provision.
- (4) An order under this section terminating a provision which grants listed building consent for any works may be made at any time before the works are completed, but does not affect listed building consent for works carried out before the order takes effect.
- (5) In Schedule 10—
 - (a) Part 1 makes provision about the procedure that must be followed before an order made by a planning authority under this section takes effect;
 - (b) Part 2 makes provision about the procedure that must be followed before the Welsh Ministers make an order under this section.
- (6) The Welsh Ministers may by regulations amend Schedule 10, and the regulations may make consequential amendments to any other provision of this Act.

Commencement Information

I40 S. 115 not in force at Royal Assent, see [s. 212\(2\)](#)

116 Compensation where agreement or provision is terminated

- (1) This section applies where a listed building partnership agreement, or any provision of such an agreement, is terminated by an order under section 115.
- (2) Any person is entitled, on making a claim to the planning authority, to be paid compensation by the authority for—
 - (a) any expenditure incurred by the person in carrying out works that become abortive because of the termination of the agreement or provision;
 - (b) any other loss or damage suffered by the person that is directly attributable to the termination.
- (3) For the purposes of this section expenditure incurred in the preparation of plans for the purposes of any works, or on other similar matters preparatory to any works, is to be treated as expenditure incurred in carrying out the works.
- (4) Subject to that, no compensation is payable under this section in respect of—
 - (a) works carried out before the listed building partnership agreement, or the relevant provision of the agreement, took effect, or
 - (b) other loss or damage (other than loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the agreement or provision took effect.
- (5) A claim for compensation under this section must be made in writing within 6 months beginning with the day the termination of the agreement or provision takes effect.
- (6) In subsection (2) “the planning authority” means—
 - (a) the planning authority that made the order under section 115, or

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (b) if the order was made by the Welsh Ministers, the planning authority in whose area the listed building, or the part of a listed building, to which the order relates is situated.
- (7) The Welsh Ministers may by regulations amend this section, and the regulations may make consequential amendments to any other provision of this Act.

Commencement Information

I41 S. 116 not in force at Royal Assent, see [s. 212\(2\)](#)

CHAPTER 4

ENFORCEMENT OF CONTROLS RELATING TO LISTED BUILDINGS

Unauthorised works and intentional damage: offences

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

- (1) A person commits an offence if the person carries out, or causes to be carried out, works in relation to a listed building in breach of section 88 (requirement for works to be authorised).
- (2) A person also commits an offence if the person—
- carries out, or causes to be carried out, works in relation to a listed building, and
 - fails to comply with a condition subject to which listed building 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 this section, it is a defence for the person to prove that—
- works were urgently necessary in the interests of safety or health or for the preservation of the building,
 - it was not practicable to secure safety or health or the preservation of the building by carrying out works of repair or works to provide temporary support or shelter,
 - the works carried out were limited to the minimum measures immediately necessary, and
 - notice in writing justifying in detail the carrying out of the works was given to the planning authority in whose area the building is or was situated as soon as reasonably practicable.
- (5) In proceedings against a person for an offence under this section in relation to a building on which interim protection is conferred—
- 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

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Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (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 78(1), it is for the prosecution to prove that the notice was served on the person.
- (6) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine or imprisonment for a term not exceeding the applicable limit under section 224(1A)(b) of the Sentencing Code, or both;
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.
- (7) In determining the amount of any fine to be imposed on a person convicted of an offence 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.

Commencement Information

I42 S. 117 not in force at Royal Assent, see [s. 212\(2\)](#)

118 Offence of intentionally damaging listed building

- (1) A person commits an offence if, with the intention of causing damage to a listed building, the person does anything or permits anything to be done—
 - (a) which causes or is likely to result in damage to the building, and
 - (b) which the person would be entitled to do or permit were it not for this subsection.
- (2) Subsection (1) does not apply to—
 - (a) works for which listed building consent has been granted;
 - (b) anything done in relation to a scheduled monument (but see section 58);
 - (c) works in relation to an exempt religious building;
 - (d) anything authorised by planning permission granted or treated as having been granted on an application under the [Town and Country Planning Act 1990 \(c. 8\)](#);
 - (e) anything for which development consent has been granted under the [Planning Act 2008 \(c. 29\)](#).
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If a person convicted of an offence under subsection (1) fails to take any reasonable steps that are necessary to prevent damage or further damage resulting from the offence, the person is guilty of a further offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding one tenth of level 3 on the standard scale for each day on which the failure continues.

Commencement Information

I43 S. 118 not in force at Royal Assent, see [s. 212\(2\)](#)

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

Temporary stop notices

119 Power of planning authority to issue temporary stop notice

- (1) A planning authority may issue a temporary stop notice if it considers—
 - (a) that works have been or are being carried out in relation to a listed building in its area which involve a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted, and
 - (b) that the works (or any of them) ought to be stopped immediately, having regard to their effect on the character of the building as one of special architectural or historic interest.
- (2) A temporary stop notice must—
 - (a) specify the works to which it relates,
 - (b) prohibit the carrying out of the works (or any of them specified in the notice),
 - (c) set out the authority's reasons for issuing the notice, and
 - (d) state the effect of section 121 (offence of breaching temporary stop notice).
- (3) The planning authority must display a copy of the temporary stop notice on the listed building to which it relates; and the copy must specify the date on which it is first displayed.
- (4) But if—
 - (a) it is not reasonably practicable to display a copy of the notice on the building, or
 - (b) the authority considers that displaying a copy of the notice on the building might damage it,the authority may instead display a copy in a prominent place as near to the building as is reasonably practicable.
- (5) The authority may serve a copy of the notice on any person the authority considers—
 - (a) to be carrying out the works that the notice prohibits or causing or permitting them to be carried out,
 - (b) to be an occupier of the listed building to which the notice relates, or
 - (c) to have an interest in the building.
- (6) A temporary stop notice may not prohibit the carrying out of works of a description, or in circumstances, specified in regulations made by the Welsh Ministers.

Commencement Information

I44 S. 119 not in force at Royal Assent, see [s. 212\(2\)](#)

120 Duration etc. of temporary stop notice

- (1) A temporary stop notice takes effect when a copy of it is first displayed in accordance with section 119.
- (2) A temporary stop notice ceases to have effect—

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (a) at the end of 28 days beginning with the day the copy of it is first displayed in accordance with section 119, or
 - (b) if it specifies a shorter period beginning with that day, at the end of that period.
- (3) But if the planning authority withdraws the notice before the end of the period for which it would otherwise have effect, the notice ceases to have effect when it is withdrawn.
- (4) A planning authority may not issue a second or subsequent temporary stop notice in relation to the same works unless the authority has, since issuing the previous notice, taken other enforcement action in relation to the breach referred to in section 119(1)(a).
- (5) In subsection (4) the reference to taking other enforcement action is a reference to—
- (a) issuing an enforcement notice under section 123, or
 - (b) obtaining an injunction under section 135.

Commencement Information

I45 S. 120 not in force at Royal Assent, see [s. 212\(2\)](#)

121 Offence of breaching temporary stop notice

- (1) A person commits an offence if, at any time when a temporary stop notice has effect, the person carries out works prohibited by the notice or causes or permits such works to be carried out.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same temporary stop notice 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 for an offence under this section, it is a defence to prove that—
 - (a) works to the listed building were urgently necessary in the interests of safety or health or for the preservation of the building,
 - (b) it was not practicable to secure safety or health or the preservation of the building by carrying out works of repair or works to provide temporary support or shelter,
 - (c) the works carried out were limited to the minimum measures immediately necessary, and
 - (d) notice in writing justifying in detail the carrying out of the works was given to the planning authority in whose area the building is or was situated 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 the fine, 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.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

Commencement Information

I46 S. 121 not in force at Royal Assent, see [s. 212\(2\)](#)

122 Compensation for loss or damage caused by temporary stop notice

- (1) This section applies where—
 - (a) the works specified in a temporary stop notice do not, at the time the notice takes effect, involve a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted, or
 - (b) a planning authority withdraws a temporary stop notice after it has taken effect.
- (2) This section does not apply by virtue of subsection (1)(b) where—
 - (a) listed building consent is granted for the works specified in the temporary stop notice after the notice has taken effect, and
 - (b) the planning authority withdraws the notice after the grant of that consent.
- (3) Any person who has an interest in the listed building to which the notice relates at the time the notice takes effect is entitled, on making a claim to the planning authority, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the effect of the notice.
- (4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.
- (5) No compensation is payable under this section for loss or damage that the claimant could have avoided by—
 - (a) providing information that the claimant was required to provide by a notice served by the planning authority under section 197 of this Act or section 16 of the [Local Government \(Miscellaneous Provisions\) Act 1976 \(c. 57\)](#), or
 - (b) co-operating with the planning authority in any other way when responding to such a notice.
- (6) A claim for compensation under this section must be made in writing within 6 months beginning—
 - (a) in a case falling within subsection (1)(a) but not within subsection (1)(b), with the day the temporary stop notice takes effect;
 - (b) in a case falling within subsection (1)(b), with the day the notice is withdrawn.

Commencement Information

I47 S. 122 not in force at Royal Assent, see [s. 212\(2\)](#)

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

Enforcement notices issued by planning authorities

123 Power of planning authority to issue enforcement notice

- (1) A planning authority may issue an enforcement notice if it considers—
 - (a) that works which involve a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted have been or are being carried out in relation to a listed building in its area, and
 - (b) that it is appropriate to issue the notice, having regard to the effect of the works on the character of the building as a building of special architectural or historic interest.
- (2) An enforcement notice must—
 - (a) specify the alleged breach, and
 - (b) require steps specified in the notice to be taken for one or more of the purposes set out in subsection (3).
- (3) The purposes are—
 - (a) restoring the listed building to its condition before the breach took place,
 - (b) if the planning authority considers that restoration would not be reasonably practicable or would be undesirable, carrying out further works to alleviate the effect of the breach, or
 - (c) putting the building in the condition it would have been in if the terms of any listed building consent for the works to which the notice relates (including any conditions attached to the consent) had been complied with.
- (4) Where an enforcement notice imposes a requirement under subsection (3)(b), listed building consent is to be treated as having been granted for any works carried out in compliance with the requirement.

Commencement Information

I48 S. 123 not in force at Royal Assent, see [s. 212\(2\)](#)

124 Service and taking effect of enforcement notice

- (1) An enforcement notice must specify—
 - (a) the date on which it is to take effect, and
 - (b) the period within which the steps specified in it must be taken.
- (2) The notice takes effect at the beginning of the day specified under subsection (1)(a); but where an appeal is made against the notice under section 127, this is subject to sections 127(4)(a) and 184(5).
- (3) An enforcement notice may specify different periods for taking different steps.
- (4) Where a planning authority issues an enforcement notice, it must serve a copy of the notice on—
 - (a) every owner and occupier of the listed building to which the notice relates, and
 - (b) any other person who has an interest in the building which the authority considers to be materially affected by the notice.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (5) Each copy of the notice must be served—
- (a) before the end of 28 days after the day the notice is issued, and
 - (b) at least 28 days before the date specified in the notice as the date on which it is to take effect.

Commencement Information

I49 S. 124 not in force at Royal Assent, see [s. 212\(2\)](#)

125 Variation and withdrawal of enforcement notice

- (1) Where a planning authority has issued an enforcement notice, it may—
 - (a) withdraw the notice;
 - (b) waive or relax any requirement of the notice, and in particular extend the period within which the notice requires any step to be taken.
- (2) The authority may exercise the powers in subsection (1) whether or not the notice has taken effect.
- (3) The withdrawal of an enforcement notice does not prevent the planning authority from issuing another enforcement notice.
- (4) Subsection (5) applies where the planning authority had served copies of the enforcement notice under section 124(4) before exercising the powers in subsection (1).
- (5) Immediately after exercising any of those powers, the authority must give notice that it has done so to every person who was served with a copy of the enforcement notice (or who would be served with a copy of the notice if it were reissued).

Commencement Information

I50 S. 125 not in force at Royal Assent, see [s. 212\(2\)](#)

126 Effect of granting listed building consent on enforcement notice

- (1) This section applies if, after an enforcement notice has been issued, listed building consent is granted under section 89(2)—
 - (a) authorising any works to which the notice relates that have been carried out in breach of section 88, or
 - (b) authorising works which involve a breach of a condition subject to which a previous consent was granted.
- (2) The notice ceases to have effect (or does not take effect) so far as it—
 - (a) requires steps to be taken that are inconsistent with the authorisation of the works, or
 - (b) requires steps to be taken for complying with the condition.
- (3) The fact that an enforcement notice has wholly or partly ceased to have effect by virtue of this section does not affect the liability of any person for an offence in respect of a previous failure to comply with the notice (see section 133).

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

Commencement Information

I51 S. 126 not in force at Royal Assent, see [s. 212\(2\)](#)

Appeals and other proceedings relating to enforcement notices

127 Right to appeal against enforcement notice

- (1) The following persons may appeal to the Welsh Ministers against an enforcement notice (whether or not a copy of the notice has been served on them)—
- (a) any person who has an interest in the listed building to which the notice relates;
 - (b) any person who by virtue of a licence—
 - (i) occupies the building on the day the notice is issued, and
 - (ii) continues to occupy it when the appeal is made.
- (2) An appeal may be made on one or more of the following grounds—
- (a) that the building is not of special architectural or historic interest;
 - (b) that the matters alleged to constitute a breach of section 88 or of a condition of listed building consent have not occurred;
 - (c) that those matters (if they occurred) do not constitute such a breach;
 - (d) that the following conditions are met—
 - (i) works to the building were urgently necessary in the interests of safety or health or for the preservation of the building,
 - (ii) it was not practicable to secure safety or health or the preservation of the building by carrying out works of repair or works to provide temporary support or shelter, and
 - (iii) the works carried out were limited to the minimum measures immediately necessary;
 - (e) that listed building consent ought to be granted for the works to which the notice relates, or that any relevant condition of listed building consent which has been granted for the works ought to be removed or replaced with different conditions;
 - (f) that a copy of the notice was not served on a person as required by section 124;
 - (g) that steps which the notice requires under section 123(3)(a) would not serve the purpose of restoring the character of the building;
 - (h) that steps which the notice requires for any of the purposes set out in section 123(3) exceed what is necessary for the purpose in question;
 - (i) that the period within which the notice requires any step to be taken is unreasonably short.
- (3) An appeal must be made by—
- (a) serving a notice of appeal on the Welsh Ministers before the date specified in the enforcement notice as the date on which it is to take effect,
 - (b) sending a notice of appeal to the Welsh Ministers in a properly addressed and pre-paid letter posted to them at a time when, in the ordinary course of post, it would be delivered to them before that date, or

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Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (c) sending a notice of appeal to the Welsh Ministers using electronic communications at a time when, in the ordinary course of transmission, it would be delivered to them before that date.
- (4) Where an appeal is made—
 - (a) the enforcement notice has no effect until the appeal is finally determined or withdrawn; but this is subject to any order under section 184(5);
 - (b) neither the appellant nor any other person is entitled, in any other proceedings started after the making of the appeal, to claim that the enforcement notice was not served on the appellant in accordance with section 124.
- (5) An appellant must submit to the Welsh Ministers a statement in writing containing information required by regulations made by the Welsh Ministers.
- (6) The appellant must submit the statement either—
 - (a) with the notice of appeal, or
 - (b) within the period specified in regulations made by the Welsh Ministers.
- (7) Where an appeal is made on more than one ground, if the appellant fails to give information required under subsection (5) in relation to a ground within the period specified under subsection (6)(b), the Welsh Ministers may determine the appeal without considering that ground.
- (8) Chapter 2 of Part 5 makes provision about the procedure for the consideration of appeals under this section (including provision for them to be determined by persons appointed by the Welsh Ministers).

Commencement Information

I52 S. 127 not in force at Royal Assent, see [s. 212\(2\)](#)

128 Determination of appeal

- (1) On an appeal under section 127, the Welsh Ministers may—
 - (a) correct any defect, error or misdescription in the enforcement notice to which the appeal relates, or
 - (b) vary the terms of the notice,if they are satisfied that the correction or variation will not cause injustice to the appellant or the planning authority.
- (2) Where the Welsh Ministers determine an appeal—
 - (a) if they allow the appeal, they may quash the enforcement notice;
 - (b) they must give any directions necessary to give effect to their determination.
- (3) On the determination of an appeal the Welsh Ministers may—
 - (a) grant listed building consent for any of the works to which the enforcement notice relates;
 - (b) remove any condition subject to which listed building consent was granted and replace it with any other condition, whether more or less onerous;
 - (c) exercise their power under section 76 to de-list the building to which the appeal relates.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (4) Where it would otherwise be a ground for determining to allow an appeal that a copy of the enforcement notice was not served on a person who was required to be served, the Welsh Ministers may ignore that fact if neither the appellant nor that person has been substantially prejudiced by the failure.
- (5) The Welsh Ministers may—
- (a) dismiss an appeal if the appellant fails to comply with section 127(6);
 - (b) allow an appeal and quash the enforcement notice if the planning authority fails, within the period specified in regulations made under section 175, to comply with a requirement of the regulations to—
 - (i) submit a statement of the representations the authority proposes to make on the appeal which includes the matters specified in the regulations, or
 - (ii) send the Welsh Ministers a copy of the enforcement notice and a list of the persons on whom copies of it were served.
- (6) The decision of the Welsh Ministers on the appeal (including any decision relating to the exercise of the powers conferred by subsection (3)) is final.

Commencement Information

I53 S. 128 not in force at Royal Assent, see [s. 212\(2\)](#)

129 Grounds for appeal not to be raised in other proceedings

The validity of an enforcement notice may not be questioned, on any of the grounds on which an appeal may be made under section 127, in any proceedings except an appeal under that section.

Commencement Information

I54 S. 129 not in force at Royal Assent, see [s. 212\(2\)](#)

Compliance with enforcement notices

130 Order to permit steps required by enforcement notice

- (1) An owner of land may apply by way of complaint to a magistrates' court for an order requiring another person who has an interest in the land to permit the owner to take steps required by an enforcement notice.
- (2) The court may make such an order if it is satisfied that the other person is preventing the owner from taking steps required by the enforcement notice.

Commencement Information

I55 S. 130 not in force at Royal Assent, see [s. 212\(2\)](#)

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

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

- (1) If the period within which an enforcement notice requires any step to be taken has ended and the step has not been taken, the planning authority that issued the notice may at any reasonable time enter the land to which the notice relates and take the step.
- (2) A person who intentionally obstructs a person exercising a power under subsection (1) commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) This section does not apply in relation to Crown land.

Commencement Information

I56 S. 131 not in force at Royal Assent, see [s. 212\(2\)](#)

132 Recovery of costs of compliance with enforcement notice

- (1) Where a planning authority exercises the powers under section 131(1) to enter land and take a step required by an enforcement notice, the authority may recover from a person who is then an owner of the land the costs it reasonably incurs in doing so.
- (2) If a planning authority seeks to recover costs under subsection (1) from an owner of land who—
 - (a) is entitled to receive the rack rent of the land merely as agent or trustee for another person (the “principal”), and
 - (b) does not have, and has not had at any time since the day payment of the costs was demanded, enough money on behalf of the principal to pay the costs in full,
 the liability of the agent or trustee is limited to the total amount of money that the agent or trustee has had on behalf of the principal since that day.
- (3) If subsection (2) prevents a planning authority recovering the whole of its costs from an agent or trustee, it may recover them from the principal, or partly from the principal and partly from the agent or trustee.
- (4) Where a copy of an enforcement notice has been served in respect of a listed building—
 - (a) costs which an owner or occupier of the building incurs for the purpose of complying with the notice, and
 - (b) amounts which an owner of land pays under subsection (1) in respect of costs incurred by the planning authority in taking steps required by the notice,
 are to be treated as incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (5) The costs recoverable by a planning authority under subsection (1) are, until recovered, a charge on the land to which the enforcement notice relates.
- (6) The charge takes effect as a local land charge at the beginning of the day after the day the authority completes the step to which the costs relate.
- (7) Subsection (8) applies where—

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (a) a planning authority removes materials from land in the course of taking steps required by an enforcement notice, and
 - (b) the owner of the materials does not, within 3 days after the day they are removed, claim the materials and take them away.
- (8) The planning authority—
- (a) may sell the materials, and
 - (b) if it does so, must pay the proceeds to the person who owned the materials, after deducting any costs recoverable by it from the person.
- (9) A planning authority may not recover costs under this section from the Crown.

Commencement Information

I57 S. 132 not in force at Royal Assent, see [s. 212\(2\)](#)

133 Offence of failing to comply with enforcement notice

- (1) Where, at any time after the end of the period within which an enforcement notice requires any step to be taken, the step has not been taken, a person who is at that time an owner of the listed building to which the notice relates is guilty of an offence.
- (2) A person may be charged with an offence under this section by reference to a day or a longer period, and may be convicted of more than one offence in relation to the same enforcement notice 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—
 - (a) that the person did everything the person could be expected to do to secure that the steps required by the notice were taken, or
 - (b) that the person was not served with a copy of the enforcement notice and was not aware of its existence.
- (4) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.
- (5) In determining the amount of the fine, 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.

Commencement Information

I58 S. 133 not in force at Royal Assent, see [s. 212\(2\)](#)

Enforcement notices issued by Welsh Ministers

134 Power of Welsh Ministers to issue enforcement notice

- (1) The Welsh Ministers may issue an enforcement notice if they consider—

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (a) that works which involve a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted have been or are being carried out in relation to a listed building, and
 - (b) that it is appropriate to issue the notice, having regard to the effect of the works on the character of the building as a building of special architectural or historic interest.
- (2) Before issuing the notice, the Welsh Ministers must consult the planning authority in whose area the building is situated.
 - (3) An enforcement notice issued by the Welsh Ministers has the same effect as one issued by a planning authority.
 - (4) Sections 123 to 132 apply in relation to an enforcement notice issued by the Welsh Ministers as if references to a planning authority were references to the Welsh Ministers.

Commencement Information

I59 S. 134 not in force at Royal Assent, see [s. 212\(2\)](#)

Injunctions

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

- (1) A planning authority may apply to the High Court or the county court for an injunction restraining—
 - (a) an actual or expected breach of section 88 (requirement for works to be authorised) in relation to a listed building in its area, or
 - (b) an actual or expected failure to comply with a condition of listed building consent for works to a listed building in its area.
- (2) An authority may make an application whether or not it has exercised or is proposing to exercise any of its other powers under this Part.
- (3) The court may grant an injunction on any terms it considers appropriate for the purpose of restraining the breach.
- (4) Rules of court may provide for an injunction to be issued against a person whose identity is unknown.
- (5) An injunction may not be issued under this section against the Crown.

Commencement Information

I60 S. 135 not in force at Royal Assent, see [s. 212\(2\)](#)

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

CHAPTER 5

ACQUISITION AND PRESERVATION OF BUILDINGS OF SPECIAL INTEREST

Acquisition by agreement of buildings of special interest

136 Power of planning authority to acquire building by agreement

- (1) A planning authority may acquire by agreement—
 - (a) any building wholly or mainly in Wales that it considers to be of special architectural or historic interest, and
 - (b) any land in respect of which the conditions in subsection (2) are met.
- (2) The conditions are that—
 - (a) the land includes, adjoins or is adjacent to the building, and
 - (b) the planning authority considers that the land is required—
 - (i) for preserving the building or its amenities,
 - (ii) for providing or facilitating access to it, or
 - (iii) for its proper control or management.
- (3) Part 1 of the [Compulsory Purchase Act 1965 \(c. 56\)](#) applies (so far as relevant) to an acquisition under this section, other than sections 4 to 8, section 10 and section 31 of that Act.
- (4) References in that Part to the execution of the works are to be read in relation to an acquisition under this section as including the carrying out of building or maintenance work authorised by section 203 of the [Housing and Planning Act 2016 \(c. 22\)](#) (power to override easements and other rights).

Commencement Information

161 S. 136 not in force at Royal Assent, see [s. 212\(2\)](#)

Compulsory acquisition of listed buildings in need of repair

137 Powers to acquire listed building compulsorily for purpose of preservation

- (1) This section applies if the Welsh Ministers—
 - (a) consider that reasonable steps are not being taken for properly preserving a listed building, and
 - (b) are satisfied that there is a compelling case in the public interest for the building to be acquired compulsorily for the purpose of preserving it.
- (2) The Welsh Ministers—
 - (a) may authorise the planning authority in whose area the listed building is situated to acquire compulsorily the building and any land in respect of which the conditions in subsection (3) are met, or
 - (b) may themselves acquire the building and land compulsorily.
- (3) The conditions are that—

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Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (a) the land includes, adjoins or is adjacent to the building, and
 - (b) the Welsh Ministers consider that the land is required—
 - (i) for preserving the building or its amenities,
 - (ii) for providing or facilitating access to it, or
 - (iii) for its proper control or management.
- (4) This section does not permit the acquisition of—
- (a) a building which is a scheduled monument (but see section 43), or
 - (b) an exempt religious building.
- (5) This section does not permit the acquisition of an interest in Crown land unless—
- (a) the interest is held otherwise than by or on behalf of the Crown, and
 - (b) the appropriate Crown authority agrees to the acquisition.
- (6) The [Acquisition of Land Act 1981 \(c. 67\)](#) applies to an acquisition under this section.
- (7) In this Chapter “acquiring authority” means—
- (a) in the case of an acquisition or proposed acquisition under subsection (2)(a), the planning authority that acquires or proposes to acquire the listed building or land;
 - (b) in the case of an acquisition or proposed acquisition under subsection (2)(b), the Welsh Ministers.

Commencement Information

I62 S. 137 not in force at Royal Assent, see [s. 212\(2\)](#)

138 Requirement to serve repairs notice before starting compulsory acquisition

- (1) An acquiring authority may not start the compulsory acquisition of a listed building under section 137 unless—
- (a) the authority has served a repairs notice on every owner of the building,
 - (b) the 2 months beginning with the day the repairs notice was served have ended, and
 - (c) the repairs notice has not been withdrawn.
- (2) A repairs notice is a notice—
- (a) specifying the works the authority considers reasonably necessary for the proper preservation of the listed building, and
 - (b) explaining the effect of sections 137 to 141 of this Act and section 49 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#) (assumption about listed building consent when assessing compensation for compulsory acquisition).
- (3) If—
- (a) a listed building is demolished after a repairs notice has been served in respect of it, but
 - (b) the Welsh Ministers are satisfied that they would have confirmed or made a compulsory purchase order in respect of the building had it not been demolished,

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the demolition of the building does not prevent the compulsory acquisition of the site of the building under section 137.

- (4) An acquiring authority may at any time withdraw a repairs notice it has served on any person; and if it does do so, it must immediately give the person notice of the withdrawal.
- (5) For the purposes of subsection (1) an acquiring authority starts a compulsory acquisition when it serves the notice required by section 12 of the [Acquisition of Land Act 1981 \(c. 67\)](#) or paragraph 3(1) of Schedule 1 to that Act.

Commencement Information

I63 S. 138 not in force at Royal Assent, see [s. 212\(2\)](#)

139 Application to stop compulsory acquisition

- (1) This section applies where a compulsory purchase order for the acquisition of a listed building under section 137 is made by a planning authority or prepared in draft by the Welsh Ministers.
- (2) Any person who has an interest in the listed building may apply to a magistrates' court for an order that no further steps may be taken in relation to the compulsory purchase order.
- (3) The application must be made within 28 days after the day the notice required by section 12 of the [Acquisition of Land Act 1981 \(c. 67\)](#) or paragraph 3(1) of Schedule 1 to that Act is served.
- (4) If the magistrates' court is satisfied that reasonable steps have been taken for properly preserving the listed building, it must make the order applied for.
- (5) Any person aggrieved by the decision of the magistrates' court on the application may appeal against the decision to the Crown Court.

Commencement Information

I64 S. 139 not in force at Royal Assent, see [s. 212\(2\)](#)

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

- (1) A compulsory purchase order for the acquisition of a listed building under section 137 may include a direction for minimum compensation if the acquiring authority is satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development of the site or any adjoining site.
- (2) A direction for minimum compensation is a direction that, in assessing compensation for the compulsory acquisition of the listed building, it is to be assumed—
 - (a) that planning permission would not be granted for any development of the site of the building, and

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- (b) that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than works necessary for restoring it to and maintaining it in a proper state of repair.
- (3) Where a direction for minimum compensation is included in an order made by a planning authority or prepared in draft by the Welsh Ministers, the statement of the effect of the order in the notice required by section 12 of the [Acquisition of Land Act 1981 \(c. 67\)](#) or paragraph 3(1) of Schedule 1 to that Act must—
- (a) include a statement that the direction has been included, and
 - (b) explain the effect of the direction.
- (4) If the Welsh Ministers confirm or make a compulsory purchase order which includes a direction for minimum compensation, the compensation for the compulsory acquisition is to be assessed in accordance with the direction, despite anything to the contrary in—
- (a) the [Land Compensation Act 1961 \(c. 33\)](#),
 - (b) the [Town and Country Planning Act 1990 \(c. 8\)](#),
 - (c) section 49 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#), or
 - (d) this Act.

Commencement Information

I65 S. 140 not in force at Royal Assent, see [s. 212\(2\)](#)

141 Application for removal of direction for minimum compensation

- (1) This section applies where a direction for minimum compensation is included in a compulsory purchase order for the acquisition of a listed building under section 137 that is made by a planning authority or prepared in draft by the Welsh Ministers.
- (2) Any person who has an interest in the listed building may apply to a magistrates' court for an order that no direction for minimum compensation is to be included in the compulsory purchase order as confirmed or made by the Welsh Ministers.
- (3) The application must be made within 28 days after the day the notice required by section 12 of the [Acquisition of Land Act 1981 \(c. 67\)](#) or paragraph 3(1) of Schedule 1 to that Act is served.
- (4) If the magistrates' court is satisfied that the listed building has not been deliberately allowed to fall into disrepair for the purpose mentioned in section 140(1), it must make the order applied for.
- (5) Any person aggrieved by the decision of the magistrates' court on the application may appeal against the decision to the Crown Court.
- (6) The rights conferred by this section are in addition to, and do not limit, the rights conferred by section 139.

Commencement Information

I66 S. 141 not in force at Royal Assent, see [s. 212\(2\)](#)

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

142 Ending of rights over land acquired compulsorily

- (1) On the completion of a compulsory acquisition of land under section 137—
 - (a) all private rights of way over the land are extinguished,
 - (b) all rights to install, keep or maintain apparatus on, under or over the land are extinguished, and
 - (c) the acquiring authority becomes entitled to any apparatus on, under or over the land.
- (2) Subsection (1) does not apply to—
 - (a) any right to which a statutory undertaker is entitled, or apparatus belonging to a statutory undertaker, for the purpose of carrying on its undertaking,
 - (b) any right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network, or any electronic communications apparatus installed for the purposes of such a network, or
 - (c) any right or apparatus specified by the acquiring authority in a direction given before the completion of the acquisition.
- (3) Subsection (1) is also subject to any agreement (whether made before or after the completion of the acquisition) between the acquiring authority and the person who is entitled to the right or to whom the apparatus belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the transfer of apparatus under this section is entitled to be paid compensation by the acquiring authority.
- (5) Compensation under this section is to be determined in accordance with the [Land Compensation Act 1961 \(c. 33\)](#).
- (6) In subsection (2)(b)—

“electronic communications code” (“*cod cyfathrebu electronig*”) means the code set out in Schedule 3A to the [Communications Act 2003 \(c. 21\)](#);

“operator” (“*gweithredwr*”), “electronic communications code network” (“*rhwydwaith cod cyfathrebu electronig*”) and “electronic communications apparatus” (“*cyfarpar cyfathrebu electronig*”) have the meanings given by paragraph 1(1) of Schedule 17 to the Communications Act 2003.

Commencement Information

I67 S. 142 not in force at Royal Assent, see [s. 212\(2\)](#)

Management, use and disposal of buildings

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

- (1) Where a planning authority acquires a building or other land under this Chapter, it may make any arrangements for the management, use or disposal of the building or land that it considers appropriate for the purpose of preserving the building or land.

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Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (2) For further provision about the use of land that a planning authority acquires by agreement under section 136, see sections 232, 233 and 235 (appropriation, disposal and development), 242 (overriding rights of possession) and 243 (joint body to hold land) of the [Town and Country Planning Act 1990 \(c. 8\)](#).
- (3) Where the Welsh Ministers acquire a building or other land under section 137, they may—
 - (a) make any arrangements they consider appropriate for the management, custody or use of the building or land, and
 - (b) dispose of the building or land, or deal with the building or land in any other way.
- (4) For provision removing restrictions on the use of certain types of land acquired under this Chapter, see sections 238 to 240 (consecrated land and burial grounds) and 241 (commons, open spaces and fuel or field garden allotments) of the Town and Country Planning Act 1990.

Commencement Information

I68 S. 143 not in force at Royal Assent, see [s. 212\(2\)](#)

Urgent preservation of listed buildings

144 Urgent works to preserve listed building

- (1) A local authority may carry out any works it considers urgently necessary for the preservation of a listed building in its area.
- (2) The Welsh Ministers may carry out any works they consider urgently necessary for the preservation of any listed building.
- (3) The works that may be carried out under this section include works to provide temporary support or shelter for the listed building.
- (4) If the listed building or any part of it is in residential use, works may be carried out under this section only if they would not interfere unreasonably with that use.
- (5) At least 7 clear days' written notice of the intention to carry out works under this section must be given—
 - (a) to every owner of the listed building, and
 - (b) if the building or any part of it is in residential use, every occupier of the building.
- (6) The notice must describe the works proposed to be carried out.
- (7) Works may not be carried out under this section in relation to—
 - (a) a building which is a scheduled monument (but see section 61),
 - (b) an exempt religious building, or
 - (c) a listed building on Crown land.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

Commencement Information

I69 S. 144 not in force at Royal Assent, see [s. 212\(2\)](#)

145 Power to require owner to meet costs of preservation works

- (1) Where works for the preservation of a listed building have been carried out by a local authority or the Welsh Ministers under section 144, the local authority or (as the case may be) the Welsh Ministers may serve notice on any owner of the listed building requiring the owner to meet the costs of the works.
- (2) Where the works consist of or include works to provide temporary support or shelter for the listed building—
 - (a) the costs that may be recovered include any continuing expenditure involved in making available the equipment or materials used, and
 - (b) notices under subsection (1) may be given from time to time in respect of that continuing expenditure.
- (3) Subsection (4) applies if, within 28 days after the day a notice under subsection (1) is served, the owner complains in writing to the Welsh Ministers—
 - (a) that some or all of the works were unnecessary for the preservation of the listed building,
 - (b) in the case of works to provide temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time,
 - (c) that the amount specified in the notice is unreasonable, or
 - (d) that the recovery of that amount would cause hardship to the owner.
- (4) The Welsh Ministers must—
 - (a) determine to what extent the owner’s complaint is well-founded, and
 - (b) serve notice of their determination on—
 - (i) the owner, and
 - (ii) if the notice under subsection (1) was given by a local authority, that authority.
- (5) The notice of the Welsh Ministers’ determination must state—
 - (a) the reasons for the determination, and
 - (b) the amount that they have decided may be recovered.
- (6) An owner or local authority on whom notice is served under subsection (4)(b) may, within 28 days after the day the notice is served, appeal to the county court against the Welsh Ministers’ decision.

Commencement Information

I70 S. 145 not in force at Royal Assent, see [s. 212\(2\)](#)

146 Further provision about recovery of costs of preservation works

- (1) The costs which a local authority or the Welsh Ministers may recover under section 145 carry interest, at the rate specified in regulations made by the Welsh

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Ministers, from the time when the notice under subsection (1) of that section becomes operative until all of the amounts due under that section are recovered.

- (2) The costs and any interest are recoverable by the local authority or (as the case may be) the Welsh Ministers as a debt.
- (3) The costs and any interest are, from the time when the notice under section 145(1) becomes operative until they are recovered, a charge on the land on which the listed building in question is situated.
- (4) The charge takes effect, at the time when the notice becomes operative, as a legal charge which is a local land charge.
- (5) For the purpose of enforcing the charge, the local authority or (as the case may be) the Welsh Ministers have the same powers and remedies under the [Law of Property Act 1925 \(c. 20\)](#) and otherwise as if they were a mortgagee by deed with powers to sell the land, make leases, accept surrenders of leases and appoint a receiver.
- (6) The power to appoint a receiver is exercisable at any time after the end of 1 month beginning with the day the charge takes effect.
- (7) For the purposes of this section a notice under section 145(1) becomes operative—
 - (a) where no complaint is made to the Welsh Ministers within the period referred to in section 145(3), at the end of that period;
 - (b) where a complaint is made but no appeal is made to the county court within the period referred to in section 145(6), at the end of that period;
 - (c) where an appeal is made and the decision on the appeal confirms the Welsh Ministers’ determination under section 145(4) (with or without variation), at the time of the decision;
 - (d) where an appeal is made but is withdrawn, at the time of the withdrawal.

Commencement Information

I71 S. 146 not in force at Royal Assent, see [s. 212\(2\)](#)

Further provision about preservation of listed buildings

147 Steps for preservation of listed buildings in disrepair

- (1) The Welsh Ministers may by regulations make provision for and in connection with conferring powers on local authorities or the Welsh Ministers to take steps to secure the proper preservation of listed buildings which have fallen into disrepair.
- (2) The regulations may, in particular, provide for—
 - (a) notices requiring owners of listed buildings which have fallen into disrepair to carry out works to secure their proper preservation (“preservation notices”);
 - (b) appeals against preservation notices;
 - (c) offences for failure to comply with preservation notices.
- (3) Regulations under this section—
 - (a) may disapply, or apply or reproduce with or without modifications, any provision of this Part or Part 5 or 7;

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(b) may amend this Part or those Parts.

(4) Regulations under this section may not make any provision that binds the Crown.

Commencement Information

I72 S. 147 not in force at Royal Assent, see [s. 212\(2\)](#)

Finance for repair and maintenance of buildings of special interest etc.

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

- (1) A relevant local authority may contribute towards any expenditure incurred, or to be incurred, in the repair or maintenance of—
 - (a) a listed building which is situated in or in the vicinity of the authority’s area, or
 - (b) a building in the authority’s area which is not a listed building but which the authority considers to be of special architectural or historic interest.
- (2) At the same time as making such a contribution, the authority may also contribute towards any expenditure incurred, or to be incurred, in the maintenance of any garden which—
 - (a) is occupied with the building, and
 - (b) adjoins or is adjacent to it.
- (3) A contribution under this section may be made by grant or loan.
- (4) A relevant local authority may make a loan under this section on any terms and conditions that it determines, which may for example include a term that the loan is free of interest.
- (5) A relevant local authority—
 - (a) may renounce its right to repayment of a loan or any outstanding interest, and
 - (b) may agree with the borrower to vary any of the terms and conditions of a loan.
- (6) A relevant local authority may make a grant under this section subject to any conditions it considers appropriate, which may for example include a condition that the recipient of the grant must make an agreement with the authority for the purpose of securing public access to all or part of the building or garden to which the grant relates.
- (7) In this section and section 149, “relevant local authority” means—
 - (a) a county council or county borough council in Wales;
 - (b) a National Park authority in Wales;
 - (c) a joint planning board constituted under section 2(1B) of the [Town and Country Planning Act 1990](#) (c. 8).

Commencement Information

I73 S. 148 not in force at Royal Assent, see [s. 212\(2\)](#)

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

149 Recovery of grant made by local authority

- (1) This section applies where a relevant local authority makes a grant under section 148.
- (2) If any condition imposed on the making of the grant is not complied with, the authority may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (3) Subsections (4) and (5) apply if, during the 3 years beginning with the day the grant is made—
 - (a) there is a disposal of the whole or part of the interest that the recipient of the grant held in the building or garden to which the grant relates on the day the grant was made (“the relevant interest”), and
 - (b) the disposal is made by sale, by exchange or by lease for a term of at least 21 years.
- (4) If the disposal is made by the recipient of the grant or by a person to whom the recipient of the grant has given part of the relevant interest, the relevant local authority may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (5) If the disposal is made by a person to whom the recipient of the grant has given the whole of the relevant interest, the authority may recover the amount of the grant, or any part of that amount, from the person to whom the gift was made.
- (6) A relevant local authority may not recover amounts under this section which in aggregate exceed the amount of the grant.
- (7) In this section references to giving an interest to a person are references to giving it to the person directly or indirectly, other than on the death of the holder of the interest.

Commencement Information

I74 S. 149 not in force at Royal Assent, see [s. 212\(2\)](#)

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

- (1) The Welsh Ministers may make grants to meet any expenditure incurred, or to be incurred, in—
 - (a) the repair or maintenance of a building which they consider to be of special architectural or historic interest,
 - (b) the maintenance of any land which includes, adjoins or is adjacent to such a building,
 - (c) the repair or maintenance of any objects ordinarily kept in such a building, or
 - (d) the maintenance of a garden or other land which they consider to be of special historic interest.
- (2) The following provisions of this section apply where—
 - (a) the Welsh Ministers make a grant under subsection (1) on terms which provide for it to be recoverable under this section, and
 - (b) before or on making the grant the Welsh Ministers give notice in writing to the recipient of the grant which—
 - (i) summarises the effect of this section, and

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- (ii) specifies a period, beginning with the day the grant is made and ending not more than 10 years after that day, during which the grant is to be recoverable in accordance with subsections (4) to (6) (“the recovery period”).
- (3) If any condition imposed on the making of the grant is not complied with, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (4) Subsections (5) and (6) apply if during the recovery period—
 - (a) there is a disposal of the whole or part of the interest that the recipient of the grant held in the building, land or objects to which the grant relates on the day the grant was made (“the relevant interest”), and
 - (b) the disposal is made by sale, by exchange or by lease for a term of at least 21 years.
- (5) If the disposal is made by the recipient of the grant or by a person to whom the recipient of the grant has given a part of the relevant interest, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the recipient of the grant.
- (6) If the disposal is made by a person to whom the recipient of the grant has given the whole of the relevant interest, the Welsh Ministers may recover the amount of the grant, or any part of that amount, from the person to whom the gift was made.
- (7) The Welsh Ministers may not recover amounts under this section which in aggregate exceed the amount of the grant.
- (8) In this section references to giving an interest to a person are references to giving it to the person directly or indirectly, other than on the death of the holder of the interest.

Commencement Information

I75 S. 150 not in force at Royal Assent, see [s. 212\(2\)](#)

151 Acceptance by Welsh Ministers of endowment for upkeep of building

- (1) This section applies where—
 - (a) an instrument contains a provision purporting to be a gift of property of any kind to the Welsh Ministers on trust to use the income of the property (either for a limited time or indefinitely) for or towards the repair and maintenance of a relevant building, or of a relevant building together with other property,
 - (b) the provision does not create a charitable trust, and
 - (c) the Welsh Ministers accept the gift.
- (2) In this section—
 - “endowment trust” (“*yddiriedolaeth waddol*”) means the trust referred to in subsection (1)(a);
 - “relevant building” (“*adeilad perthnasol*”) means—
 - (a) a building which the Welsh Ministers consider to be of special architectural or historic interest and—
 - (i) in which, at the time when the trust instrument comes into operation, they are or soon will be entitled to an interest, or

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- (ii) which at that time is or soon will be under their control or management, or
- (b) a building which at that time is or soon will be under their guardianship under Chapter 6 of Part 2;
- “trust fund” (“*cronfa’r ymddiriedolaeth*”) means the property given to the Welsh Ministers and any property for the time being representing that property.
- (3) The validity of the gift and of the endowment trust is not affected, and is to be treated as never having been affected, by any rule of law or equity which would not have affected their validity if the trust had been charitable.
- (4) While the endowment trust continues the Welsh Ministers have the same powers of management, disposition and investment in relation to the trust fund as are conferred by law on trustees of land in relation to the land and the proceeds of its sale.
- (5) The powers conferred by subsection (4) are in addition to, and do not limit, any powers conferred on the Welsh Ministers by the trust instrument.
- (6) If, while the endowment trust continues, an event happens—
- (a) which has the immediate effect that the Welsh Ministers are not entitled to any interest in the building to which the trust relates and do not have the building under their control or management, and
- (b) which would not otherwise cause the endowment trust to come to an end or be treated as having failed,
- on the happening of that event the endowment trust comes to an end and the trust fund passes as it would on a failure of the trust.
- (7) Subsection (8) applies if the trust instrument contains a provision purporting to give the trust fund, or to direct the trust fund to be held, on trust for charitable purposes if the endowment trust fails or comes to an end.
- (8) The validity of the gift or direction is not, and is to be treated as never having been, affected by any rule of law or equity relating to perpetuities.
- (9) In subsection (4) “trustees of land” has the same meaning as in the [Trusts of Land and Appointment of Trustees Act 1996 \(c. 47\)](#) (see section 1(1) of that Act).

Commencement Information

I76 S. 151 not in force at Royal Assent, see [s. 212\(2\)](#)

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

*Changes to legislation: There are currently no known outstanding effects for the
Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)*

CHAPTER 6

GENERAL

Powers of entry

152 Powers to enter land

- (1) A person authorised in writing by the Welsh Ministers may enter any land to survey a building on that land or on any other land in connection with a proposal to list or de-list the building.
- (2) A person authorised in writing by a planning authority may enter any land to survey a building on that land or on any other land in connection with a proposal to serve a temporary listing notice in relation to the building.
- (3) A person authorised in writing by a planning authority or the Welsh Ministers may enter any land to—
 - (a) survey that land or any other land in connection with a proposal to make an order under section 107 (modification or revocation of listed building consent or conservation area consent),
 - (b) survey that land or any other land in connection with a proposal to make an order under section 115 (termination of listed building partnership agreement or provision of agreement), or
 - (c) assess whether an offence has been or is being committed under section 91(5), 117 or 118.
- (4) A person authorised in writing by a planning authority may enter any land to—
 - (a) determine whether a temporary stop notice should be issued,
 - (b) display a copy of a temporary stop notice in accordance with section 119, or
 - (c) assess whether a temporary stop notice has been complied with.
- (5) A person authorised in writing by a planning authority or the Welsh Ministers may enter any land to—
 - (a) survey that land or any other land in connection with a proposal to issue an enforcement notice,
 - (b) assess whether an enforcement notice has been complied with,
 - (c) assess whether a listed building on that land or any other land is being maintained in a proper state of repair,
 - (d) survey that land or any other land in connection with a proposal to serve a repairs notice under section 138, or
 - (e) assess whether a repairs notice has been complied with.
- (6) A person authorised in writing by a local authority or the Welsh Ministers may enter any land to—
 - (a) determine whether works should be carried out under section 144 for the preservation of a building on that land or on any other land, or
 - (b) carry out works under that section for the preservation of a building on that land or on any other land.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (7) An authorised person may enter any land to survey it, or estimate its value, in connection with a claim for compensation payable by a planning authority or the Welsh Ministers under this Part in relation to that land or any other land.
- (8) In subsection (7) “authorised person” means—
 - (a) an officer of the Valuation Office of His Majesty’s Revenue and Customs, or
 - (b) a person authorised in writing by the planning authority or the Welsh Ministers (as the case may be).
- (9) A power to survey land under this section includes power to search and bore to determine the nature of the subsoil or the presence of minerals.

Commencement Information

I77 S. 152 not in force at Royal Assent, see [s. 212\(2\)](#)

153 Exercise of power to enter land without warrant

- (1) A power to enter land under section 152 may be exercised at any reasonable time.
- (2) A person authorised to enter land under section 152 may not demand admission as of right to any land which is occupied unless at least 24 hours’ notice of the intended entry has been given to every occupier.
- (3) Subsection (2) does not apply to the power to enter land under section 152(4) (temporary stop notices).
- (4) A person authorised to enter land under section 152—
 - (a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person’s authorisation and state the purpose of the entry before entering the land;
 - (b) may take on to the land any other persons that are necessary;
 - (c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.
- (5) Where a person—
 - (a) proposes to carry out works in the exercise of a power of entry under section 152, and
 - (b) is required to give notice of the intended entry under subsection (2) of this section,the person may not carry out the works unless the notice of intended entry includes notice of the person’s intention to carry them out.
- (6) Where—
 - (a) a person proposes to carry out works in the exercise of a power of entry under section 152 on land which belongs to a statutory undertaker, and
 - (b) the undertaker objects to the proposed works on the ground that carrying them out would be seriously detrimental to the carrying on of its undertaking,the person may not carry out the works without the agreement of the appropriate Minister.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (7) A person may not enter Crown land in the exercise of a power under section 152 without the agreement of—
- (a) a person who appears to the person seeking entry to the land to be entitled to give that agreement, or
 - (b) the appropriate Crown authority.
- (8) Subsections (2) to (6) do not apply to anything done by virtue of subsection (7).
- (9) In subsection (6) “appropriate Minister” has the meaning given by section 265 of the [Town and Country Planning Act 1990 \(c. 8\)](#).

Commencement Information

I78 S. 153 not in force at Royal Assent, see [s. 212\(2\)](#)

154 Warrant to enter land

- (1) This section applies if a justice of the peace is satisfied on sworn information in writing—
- (a) that there are reasonable grounds for entering land for a purpose mentioned in section 152, and
 - (b) that—
 - (i) admission to the land has been refused or a refusal is reasonably expected, or
 - (ii) the case is one of urgency.
- (2) The justice of the peace may issue a warrant conferring a power to enter the land on any person who is authorised in writing by a person who may authorise entry under section 152 for the purpose in question.
- (3) For the purposes of subsection (1)(b) admission to land is to be treated as having been refused if no reply is received to a request for admission within a reasonable period.
- (4) Section 152(9) applies to a power to survey land conferred by a warrant under this section.
- (5) A warrant under this section confers a power to enter land—
- (a) on one occasion only, and
 - (b) only at a reasonable time, unless the case is one of urgency.
- (6) A person authorised to enter land under this section—
- (a) must, if required to do so by or on behalf of any owner or occupier of the land, produce evidence of the person’s authorisation and state the purpose of the entry before entering the land,
 - (b) may take on to the land any other persons that are necessary,
 - (c) must, if leaving the land at a time when no owner or occupier is present, leave it as effectively secured against trespassers as the person found it.
- (7) A warrant under this section ceases to have effect at the end of 1 month beginning with the day it is issued.
- (8) This section does not apply in relation to Crown land.

Status: Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

Commencement Information

179 S. 154 not in force at Royal Assent, see [s. 212\(2\)](#)

155 Supplementary provision about powers of entry

- (1) This section applies where a person has a power to enter land conferred by section 152 or by a warrant under section 154.
- (2) A person who intentionally obstructs a person exercising the power of entry commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If damage is caused to land or other property—
 - (a) in the exercise of the power of entry, or
 - (b) in making any survey for the purpose of which the power of entry was conferred,a person suffering the damage may recover compensation from the person who authorised the entry.
- (5) A claim for compensation under subsection (4) must be made in writing within 6 months beginning with the day the damage was caused (or if the damage was caused over more than one day, the last day it was caused).
- (6) A person commits an offence if the person discloses information which the person obtained in the exercise of the power of entry, and which relates to a manufacturing process or trade secret, for a purpose other than that for which the person was authorised to enter the land.
- (7) A person guilty of an offence under subsection (6) is liable—
 - (a) on summary conviction, to a fine;
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.
- (8) This section does not apply to anything done by virtue of section 153(7) (entry on Crown land).

Commencement Information

180 S. 155 not in force at Royal Assent, see [s. 212\(2\)](#)

Supplementary

156 Exempt religious buildings

- (1) The Welsh Ministers may by regulations provide that a religious building used for religious purposes is an exempt religious building for the purposes of—
 - (a) sections 83 and 84 (temporary listing of building);
 - (b) section 88 (requirement for works affecting listed building to be authorised);

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Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3. (See end of Document for details)

- (c) section 118 (offence of intentionally damaging listed building);
 - (d) section 137 (compulsory acquisition of listed building for preservation);
 - (e) section 144 (urgent works for preservation of listed building).
- (2) For the purposes of section 88 a building is to be treated as being used for religious purposes if it would be used for those purposes but for the works in question.
- (3) Regulations under this section may—
- (a) make provision in relation to religious buildings of a description specified in the regulations (whether by reference to a religious faith or denomination, a use made of the buildings, or any other circumstance) or in relation to a particular building;
 - (b) make provision in relation to all or part of a religious building;
 - (c) provide that a building is an exempt religious building only in relation to works of a description specified in the regulations (whether by reference to the extent of the works, the person by whom they are carried out, or any other circumstance);
 - (d) make different provision for buildings in different areas;
 - (e) make consequential amendments to any other provision of this Act.
- (4) In this section references to a religious building—
- (a) include any structure or artificial object that is fixed to a religious building or within its curtilage;
 - (b) do not include a building used, or available for use, by a minister of religion wholly or mainly as a residence from which to perform the duties of that office.

Commencement Information

181 S. 156 not in force at Royal Assent, see [s. 212\(2\)](#)

157 Interpretation of this Part

In this Part—

“enforcement notice” (“*hysbysiad gorfodi*”) means an enforcement notice issued under section 123 or 134 (as the case may be);

“exempt religious building” (“*adeilad crefyddol esempt*”) is to be interpreted in accordance with section 156;

“interim protection” (“*gwarchodaeth interim*”) has the meaning given by section 79(3);

“listing” (“*rhestru*”) and “de-listing” (“*dadrestru*”), in relation to a building, have the meanings given by section 76(6);

“local authority” (“*awdurdod lleol*”) means—

- (a) a county council or county borough council in Wales;
- (b) a National Park authority in Wales;
- (c) a community council;
- (d) a police and crime commissioner in Wales;
- (e) a fire and rescue authority in Wales constituted by a scheme under section 2 of the [Fire and Rescue Services Act 2004](#) (c. 21) or a scheme to which section 4 of that Act applies;

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(f) a body in Wales which is a levying body within the meaning of section 74(1) of the [Local Government Finance Act 1988 \(c. 41\)](#);

(g) a body in Wales to which section 75 of that Act (special levies) applies;

(h) a joint board or joint committee, if all the constituent authorities are local authorities within paragraphs (a) to (g);

“temporary listing” (“*rhestru dros dro*”) has the meaning given by section 83(5);

“temporary stop notice” (“*hysbysiad stop dros dro*”) means a temporary stop notice issued under section 119;

“Wales” (“*Cymru*”) means the combined area of the counties and county boroughs in Wales.

Commencement Information

182 S. 157 not in force at Royal Assent, see [s. 212\(2\)](#)

Status:

Point in time view as at 15/06/2023. This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023, PART 3.