

**Status:** Point in time view as at 15/06/2023. This version of this schedule contains provisions that are prospective.  
**Changes to legislation:** Historic Environment (Wales) Act 2023, SCHEDULE 5 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

## SCHEDULE 5

(introduced by section 27(4))

### TERMINATION BY ORDER OF SCHEDULED MONUMENT PARTNERSHIP AGREEMENT

#### PART 1

#### NOTICE OF PROPOSED TERMINATION

##### *Requirement to serve notice of proposed termination*

- 1 (1) Before making an order under section 27 terminating a scheduled monument partnership agreement or a provision of such an agreement the Welsh Ministers must serve notice of a proposal to make the order (a “notice of proposed termination”) on—
- (a) the other parties to the agreement, and
  - (b) any other person the Welsh Ministers consider to have an interest in the agreement.
- (2) A notice of proposed termination must—
- (a) include a copy of the order the Welsh Ministers propose to make,
  - (b) set out the reasons for the proposed termination,
  - (c) state that the person served with the notice has 28 days, beginning with the day after the day the notice is served, to make an objection about the proposal to the Welsh Ministers, and
  - (d) state the way in which an objection must be made.
- (3) Where the effect of the order proposed to be made under section 27 would be to revoke a scheduled monument consent granted by the agreement, the notice of proposed termination must provide that the works to which the consent relates must not be carried out on or after a day specified by the notice.
- (4) Where the effect of an order proposed to be made under section 27 would be to exclude any works from the scope of a scheduled monument consent granted by the agreement, the notice of proposed termination must provide that the affected works must not be carried out on or after a day specified by the notice.

##### **Commencement Information**

- II Sch. 5 para. 1 not in force at Royal Assent, see [s. 212\(2\)](#)

##### *Effect on authorised works of service of notice of proposed termination*

- 2 (1) Where a notice of proposed termination provides that the works to which a scheduled monument consent relates must not be carried out on or after a day specified by the

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notice, those works are not authorised for the purposes of Chapter 3 of Part 2 of this Act from the beginning of that day.

- (2) Where a notice of proposed termination provides that works specified in the notice must not be carried out on or after a day specified by the notice, the specified works are not authorised for the purposes of Chapter 3 of Part 2 of this Act from the beginning of that day.
- (3) The preceding provisions of this paragraph cease to apply in relation to any works affected by a notice of proposed termination—
  - (a) where the Welsh Ministers make an order under section 27 within the period of 21 months beginning with the day the notice of proposed termination was served (“the 21 month period”), when the order is made (at which point authorisation ceases to the extent provided in the order),
  - (b) where the Welsh Ministers, within the 21 month period, serve notice on each person on whom the notice of proposed termination was served that they have decided not to make the order, at the beginning of the day specified for the purposes of this paragraph by the Welsh Ministers in the notice, or
  - (c) in any other case, at the end of the 21 month period.

#### **Commencement Information**

**I2** Sch. 5 para. 2 not in force at Royal Assent, see [s. 212\(2\)](#)

## **PART 2**

### PROCEEDING TO MAKE AN ORDER AFTER SERVICE OF NOTICE

#### *Making an order under section 27*

- 3 (1) This paragraph applies where a notice of proposed termination has been served under Part 1 of this Schedule.
- (2) The Welsh Ministers may not make the order to which the notice relates unless—
  - (a) the period for making objections to the proposal has ended without an objection being made by a person on whom the notice was served,
  - (b) if an objection was made by such a person within that period, all such objections have been withdrawn, or
  - (c) if an objection was made during that period by such a person and the objection has not been withdrawn, the requirements of sub-paragraphs (3) and (4) have been met.
- (3) The requirements of this sub-paragraph are met if the Welsh Ministers—
  - (a) cause a local inquiry to be held, or
  - (b) give the person who made the objection an opportunity to appear before and be heard by a person appointed by them.
- (4) The requirements of this sub-paragraph are met if the Welsh Ministers—
  - (a) consider each objection made as described in sub-paragraph (2)(c) and not withdrawn, and

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(b) if an inquiry or hearing has been held under sub-paragraph (3), consider the report of the person who held it.

(5) Where a person takes the opportunity to appear before and be heard by a person appointed by the Welsh Ministers under sub-paragraph (3)(b), the Welsh Ministers must give each of the following persons the opportunity to be heard on the same occasion—

- (a) every other person served with the notice of proposed termination, and
- (b) any other person the Welsh Ministers consider appropriate.

(6) Where the Welsh Ministers make an order under section 27 by virtue of sub-paragraph (2)(a) or (b), the order must be made on the terms set out by the notice of proposed termination.

(7) Where the Welsh Ministers make an order under section 27 by virtue of sub-paragraph (2)(c), the order may be made either on the terms set out by the notice of proposed termination or with modifications.

#### Commencement Information

**I3** Sch. 5 para. 3 not in force at Royal Assent, see [s. 212\(2\)](#)

#### Notification once order made

4 As soon as practicable after making an order under section 27 the Welsh Ministers must send a copy of the order—

- (a) to every person on whom a notice of proposed termination was served, and
- (b) where—
  - (i) an inquiry was held under paragraph 3(3)(a), to any other person who gave evidence at the inquiry, or
  - (ii) a hearing was held under paragraph 3(3)(b), to any other person who was given the opportunity to appear at the hearing.

#### Commencement Information

**I4** Sch. 5 para. 4 not in force at Royal Assent, see [s. 212\(2\)](#)

### PART 3

#### SUPPLEMENTARY

#### Procedure after hearing or inquiry

5 (1) The person appointed to carry out a hearing or inquiry under paragraph 3 must, after the close of the hearing or inquiry, make a report in writing to the Welsh Ministers.

(2) The report must include the appointed person's conclusions and recommendation as to whether an order under section 27 ought to be made (or the appointed person's reasons for not making a recommendation).

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#### **Commencement Information**

**I5** Sch. 5 para. 5 not in force at Royal Assent, see [s. 212\(2\)](#)

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