



Historic Environment (Wales) Act 2023

2023 asc 3

PART 3

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

CHAPTER 4

ENFORCEMENT OF CONTROLS RELATING TO LISTED BUILDINGS

Appeals and other proceedings relating to enforcement notices

PROSPECTIVE

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;

Status: This version of this provision is prospective.

*Changes to legislation: There are currently no known outstanding effects for the
Historic Environment (Wales) Act 2023, Section 128. (See end of Document for details)*

- (c) exercise their power under section 76 to de-list the building to which the appeal relates.
- (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

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

Status:

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Changes to legislation:

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