



# Deddf yr Amgylchedd Hanesyddol (Cymru) 2016

2016 dccc 4

Deddf Cynulliad Cenedlaethol Cymru i wneud darpariaeth sy'n diwygio agweddau penodol ar y gyfraith sy'n ymwneud â henebion hynafol ac adeiladau rhestredig; i sefydlu cofrestr o barciau a gerddi hanesyddol a rhestr o enwau lleoedd hanesyddol; i sefydlu cofnodion amgylchedd hanesyddol ar gyfer ardaloedd awdurdod lleol; i sefydlu Panel Cyngori ar Amgylchedd Hanesyddol Cymru; ac at ddibenion cysylltiedig. [21 Mawrth 2016]

**Gan ei fod wedi ei basio gan Gynulliad Cenedlaethol Cymru ac wedi derbyn cydsyniad Ei Mawrhydi, deddfir fel a ganlyn:**

## RHAN 1

### TROSOLWG

#### 1 Trosolwg

- (1) Mae pum Rhan i'r Ddeddf hon.
- (2) Mae'r Rhan hon yn rhoi trosolwg o'r Ddeddf hon.
- (3) Mae Rhan 2 yn gwneud diwygiadau i [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#), yn bennaf mewn perthynas â henebion hynafol yng Nghymru. Mae hefyd yn gwneud darpariaeth i Weinidogion Cymru lunio a chynnal cofrestr o barciau a gerddi hanesyddol.
- (4) Mae Rhan 3 yn gwneud diwygiadau i [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) mewn perthynas ag adeiladau yng Nghymru sydd o ddiddordeb pensaernïol neu hanesyddol arbennig ("adeiladau rhestredig").
- (5) Mae Rhan 4 yn gwneud darpariaeth arall ynghylch yr amgylchedd hanesyddol yng Nghymru, gan gynnwys darpariaeth—

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*Statws* This is the original version (as it was originally enacted).

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- (a) ar gyfer llunio rhestr o enwau lleoedd hanesyddol yng Nghymru (adran 34),
  - (b) ar gyfer llunio cofnod amgylchedd hanesyddol ar gyfer pob ardal awdurdod lleol yng Nghymru (adrannau 35 i 37), a
  - (c) ar gyfer sefydlu'r Panel Cynghori ar Amgylchedd Hanesyddol Cymru, cyfansoddiad y panel hwnnw a'i swyddogaethau (adrannau 38 a 39).
- (6) Mae Rhan 5 yn cynnwys darpariaeth sy'n gymwys yn gyffredinol at ddibenion y Ddeddf hon.

## RHAN 2

### HENEBION HYNAFOL ETC

#### *Trosolwg*

## 2 Trosolwg o'r Rhan hon

- (1) Mae'r Rhan hon yn ymwneud yn bennaf â gwarchod henebion hynafol yng Nghymru. Mae'n gwneud darpariaeth—
- (a) i Weinidogion Cymru ymgynghori cyn gwneud newidiadau penodol i'r Gofrestr o dan [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (“Deddf 1979”) neu ddiwygiadau penodol sy'n ymwneud â henebion yn y Gofrestr (adran 3);
  - (b) i roi gwarchodaeth statudol i heneb wrth i Weinidogion Cymru benderfynu pa un ai i gynnwys yr heneb yn y Gofrestr neu, yn achos heneb sydd eisoes wedi ei chynnwys yn y Gofrestr, i wneud diwygiadau penodol sy'n ymwneud â hi (adran 3);
  - (c) i Weinidogion Cymru adolygu eu penderfyniad i gynnwys heneb yn y Gofrestr neu i wneud diwygiadau penodol sy'n ymwneud â heneb yn y Gofrestr (adran 3);
  - (d) i ddiwygio'r weithdrefn sy'n ymwneud â chydysniad heneb gofrestredig a'r ddarpariaeth ar gyfer digollediad am wrthod cydsyniad o'r fath (adrannau 5 i 10);
  - (e) i Weinidogion Cymru ymrwmo i gytundeb â pherchennog heneb sydd wedi ei chynnwys yn y Gofrestr ynghylch materion megis cydsyniad i waith gael ei wneud i'r heneb (adran 11);
  - (f) i Weinidogion Cymru ddyroddi hysbysiad gorfodi neu hysbysiad stop dros dro, neu wneud cais i lys am waharddeb, mewn achos sy'n ymwneud â gwaith penodol i heneb sydd wedi ei chynnwys yn y Gofrestr (adrannau 12 i 14);
  - (g) i addasu cymhwysiad troseddau penodol, gan gynnwys drwy greu amddiffyniad diwydrwydd dyladwy (adrannau 15 i 17);
  - (h) ynghylch y pŵer i gael mynediad i dir y credir bod heneb hynafol arno (adran 19);
  - (i) ynghylch yr amgylchiadau pan fo heneb yn y môr tiriogaethol i'w thrin fel pe bai yng Nghymru (adran 20);
  - (j) i alluogi cyflwyno drwy gyfathrebiadau electronig hysbysiadau a dogfennau eraill y mae'n ofynnol iddynt gael eu cyflwyno o dan Ddeddf 1979 neu yr awdurdodir iddynt gael eu cyflwyno o dan y Ddeddf honno (adran 21);
  - (k) i ddiwygio'r diffiniad o “monument” yn Neddf 1979 (adran 22).

- (2) Mae'r Rhan hon hefyd yn gwneud darpariaeth i Weinidogion Cymru lunio a chynnal cofrestr o barciau a gerddi hanesyddol (adran 18).

*Cofrestr o henebion*

**3 Diwygiadau sy'n ymwneud â'r Gofrestr**

- (1) Ar ôl adran 1A o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) mewnosoder—

**“1AA Duty to consult on certain amendments relating to the Schedule**

- (1) This section applies where the Welsh Ministers are proposing—
- to include a monument in the Schedule;
  - to exclude a monument from the Schedule; or
  - in the case of a monument which is identified in the Schedule by reference to a map maintained by the Welsh Ministers, to make a material amendment in relation to the monument.
- (2) The Welsh Ministers must—
- serve notice of the proposed inclusion, exclusion or amendment on the appropriate persons; and
  - invite those persons to submit written representations about the proposal.
- (3) The appropriate persons are—
- the owner of the monument;
  - if the owner is not the occupier, the occupier of the monument;
  - each local authority in whose area the monument is situated; and
  - any other person who appears to the Welsh Ministers appropriate as having special knowledge of, or interest in, the monument, or in monuments of special historic or archaeological interest more generally.
- (4) A notice under subsection (2) must—
- specify the proposed inclusion, exclusion or amendment;
  - specify the period within which representations about the proposal may be made, which must be at least 28 days beginning with the day on which the notice is served; and
  - in the case of a proposed inclusion or a proposed amendment of the kind described in subsection (5)(a)—
    - include a statement of the effect of section 1AB; and
    - specify the date on which interim protection takes effect under subsection (2) of that section.
- (5) For the purposes of this section an amendment in relation to a monument in the Schedule is “material” if it—
- adds to the area shown for the monument on the map referred to in subsection (1)(c); or
  - reduces the area so shown.

- (6) The Welsh Ministers may by regulations amend subsection (3) by adding a description of person to the list of appropriate persons in that subsection; and where the Welsh Ministers do so, they may also make such amendments to this Act as they consider appropriate in consequence of the amendment to subsection (3).

**1AB Interim protection pending decisions on certain amendments relating to the Schedule**

- (1) This section applies where the Welsh Ministers consult under section 1AA on a proposal to—
- (a) include a monument in the Schedule; or
  - (b) make a material amendment of the kind described in section 1AA(5) (a) in relation to a monument in the Schedule.
- (2) The provisions of this Act have effect in relation to the monument, from the beginning of the day specified for the purposes of section 1AA(4)(c)(ii)—
- (a) in the case of a proposal to include a monument in the Schedule, as if the monument were a scheduled monument; and
  - (b) in the case of a proposal to make a material amendment in relation to a monument in the Schedule, as if the amendment were made.
- (3) The protection conferred on a monument or area by virtue of subsection (2) is referred to in this Act as “interim protection”.
- (4) Interim protection conferred by virtue of subsection (2)(a) ceases to have effect—
- (a) where the Welsh Ministers include the monument in the Schedule, from the beginning of the day specified in the notice for the purpose of section 1AE(2)(a); or
  - (b) where the Welsh Ministers decide not to include the monument in the Schedule, from the beginning of the day specified in a notice issued to—
    - (i) the owner of the monument;
    - (ii) if the owner is not the occupier, the occupier of the monument; and
    - (iii) each local authority in whose area the monument is situated.
- (5) Interim protection conferred by virtue of subsection (2)(b) ceases to have effect—
- (a) where the Welsh Ministers make the material amendment, from the beginning of the day specified in the notice for the purpose of section 1AE(2)(a); or
  - (b) where the Welsh Ministers decide not to make the material amendment, from the beginning of the day specified in a notice issued to—
    - (i) the owner of the monument;
    - (ii) if the owner is not the occupier, the occupier of the monument; and
    - (iii) each local authority in whose area the monument is situated.

- (6) The Welsh Ministers—
- (a) must publish by electronic means a list containing particulars of each monument in relation to which interim protection has effect; and
  - (b) must, on request, provide a copy of the notice served under section 1AA(2) in respect of such a monument.

### **1AC Provisions applicable on lapse of interim protection**

Schedule A1 has effect with respect to the lapse of interim protection.

### **1AD Compensation for loss or damage caused by interim protection**

- (1) This section applies where interim protection in respect of a monument ceases to have effect as a result of the issue of a notice by the Welsh Ministers under section 1AB(4)(b) or (5)(b).
- (2) Any person who, at the time when the interim protection took effect, had an interest in the monument is, on making a claim to the Welsh Ministers within the prescribed time and in the prescribed manner, entitled to be paid compensation by the Welsh Ministers in respect of any loss or damage directly attributable to the effect of the protection.
- (3) The loss or damage in respect of which compensation is payable under subsection (2) includes a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the monument on account of the interim protection having effect.

### **1AE Review of decisions on certain amendments relating to the Schedule**

- (1) This section applies where the Welsh Ministers—
  - (a) include a monument in the Schedule; or
  - (b) make a material amendment of the kind described in section 1AA(5) (a) in relation to a monument in the Schedule.
- (2) When the Welsh Ministers inform the owner and (if the owner is not the occupier) the occupier of the monument under section 1(6) or (6B) that they have taken that action, they must also serve on that person or those persons a notice which—
  - (a) specifies the date on which the Welsh Ministers did so (and on which interim protection under section 1AB(2) ceased to have effect); and
  - (b) states that the person may make an application to the Welsh Ministers requesting them to review their decision to do so.
- (3) Where the owner or occupier of the monument makes such an application, the Welsh Ministers must—
  - (a) carry out the review requested;
  - (b) make a decision on the review; and
  - (c) make such amendment to the Schedule or the map referred to in section 1AA(1)(c) as they consider appropriate to give effect to that decision.

- (4) Except as provided in section 55, the validity of any decision taken by the Welsh Ministers on the review is not to be questioned in any legal proceedings.
  - (5) The Welsh Ministers must carry out a review under this section in such one or more of the following ways as appears to them to be appropriate—
    - (a) by means of a public local inquiry;
    - (b) by means of a hearing;
    - (c) on the basis of written representations.
  - (6) The Welsh Ministers must by regulations make provision about—
    - (a) the grounds on which an application for a review under this section may be made;
    - (b) the information that must be provided to, or may be required by, the Welsh Ministers in connection with such an application;
    - (c) the form and manner in which such an application must be made; and
    - (d) the period within which such an application must be made.
  - (7) The Welsh Ministers may by regulations make further provision in connection with reviews under this section, including provision about costs that may be required to be paid in connection with a review.
  - (8) Regulations made by virtue of subsection (6) or (7) may confer power on the Welsh Ministers—
    - (a) to determine matters of a description specified in the regulations; and
    - (b) to give directions in relation to those matters.
  - (9) Schedule A2 applies to reviews under this section.”
- (2) Yn adran 2 o'r Ddeddf honno (rheoli gwaith sy'n effeithio ar henebion cofrestredig), ar ôl is-adran (6) mewnosoder—
- “(6A) In any proceedings for an offence under subsection (1) in relation to a monument or anything else on which interim protection is conferred (which is, as a result of section 1AB(2), treated as a scheduled monument or part of such a monument)—
- (a) it is a defence for the accused to prove that the accused did not know, and could not reasonably have been expected to know, that the interim protection had been conferred; and
  - (b) where the defence is raised by a person on whom a notice should have been served under section 1AA(2), it is for the prosecution to prove that the notice was served on the person.”
- (3) Cyn Atodlen 1 i'r Ddeddf honno mewnosoder yr Atodlenni A1 ac A2 a nodir yn Atodlen 1 i'r Ddeddf hon.

#### **4 Diwygiadau sy'n ymwneud â'r Gofrestr: darpariaeth ganlyniadol**

- (1) Yn adran 1 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979](#) (p.46) (cofrestr o henebion), ar ôl is-adran (5) mewnosoder—
- “(5A) Section 1AA makes provision about consultation by the Welsh Ministers on proposals to include or exclude a monument or to make a material amendment in relation to a scheduled monument.”

(2) Ar ôl is-adran (6A) o'r adran honno mewnosoder—

“(6B) As soon as may be after making a material amendment of the kind described in section 1AA(5) in relation to a monument identified in the Schedule by reference to a map, the Welsh Ministers must—

- (a) inform the owner and (if the owner is not the occupier) the occupier of the monument, and any local authority in whose area the monument is situated, of the action taken; and
- (b) send to those persons a copy of the amended map.

(6C) Section 1AE(2) makes further provision about information that the Welsh Ministers must provide after making certain amendments in relation to the Schedule.”

(3) Yn adran 27 o'r Ddeddf honno (darpariaethau cyffredinol o ran digollediad am ddibrisiant o dan Ran 1 o'r Ddeddf), yn is-adran (2), yn lle “section 7 or 9” rhodder “section 1AD, 7, 9”.

(4) Yn adran 51 o'r Ddeddf honno (eiddo eglwysig), yn is-adran (3), ar ôl “under section” mewnosoder “1AD,”.

(5) Yn adran 55 o'r Ddeddf honno (achosion ar gyfer cwestiynu dilysrwydd gorchmynion penodol, etc), ar ôl is-adran (3) mewnosoder—

“(3A) This section applies to a decision on a review under section 1AE (review by Welsh Ministers or appointed person).”

(6) Yn adran 61 o'r Ddeddf honno (dehongli), yn is-adran (1), mewnosoder yn y lle priodol—

““interim protection” has the meaning given by section 1AB(3);”.

### *Cydsyniad heneb gofrestredig*

## **5 Symleiddio'r broses**

(1) Yn adran 2 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (rheoli gwaith sy'n effeithio ar henebion cofrestredig), ar ôl is-adran (5) mewnosoder—

“(5A) In the case of a monument situated in Wales, the reference in subsection (3) (a) to the granting of written consent includes a reference to the granting of consent in such other manner as may be prescribed by the Welsh Ministers.

(5B) The Welsh Ministers may by regulations make provision as to the form and content of consent under this section in relation to a monument situated in Wales.”

(2) Yn Rhan 1 o Atodlen 1 i'r Ddeddf honno (ceisiadau am gydsyniad heneb gofrestredig), ar ddiwedd paragraff 1 mewnosoder—

“(3) The Welsh Ministers may by regulations make provision as to cases in which an applicant for scheduled monument consent in relation to a monument situated in Wales may make the application otherwise than in the form provided for under sub-paragraph (1); and such provision may confer a discretion on the Welsh Ministers.”

## 6 Rhoi cydsyniad i waith anawdurdodedig

- (1) Yn adran 2 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (rheoli gwaith sy'n effeithio ar henebion cofrestredig), ar ôl is-adran (3) mewnosoder—

“(3A) If works to which this section applies have been executed in relation to a scheduled monument situated in Wales or land in, on or under which there is such a scheduled monument without being authorised under this Part, and the Welsh Ministers grant consent for the retention of the works, the works are authorised under this Part from the grant of the consent.

(3B) References in this Act to scheduled monument consent (other than in section 4) include a reference to consent under subsection (3A).”

- (2) Yn adran 61(1) o'r Ddeddf honno (dehongli), yn y diffiniad o “scheduled monument”, ar ôl “section 2(3)” mewnosoder “and (3B)”.

## 7 Y drosedd o roi gwybodaeth anwir ar gais

Yn Rhan 1 o Atodlen 1 i [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (ceisiadau am gydsyniad heneb gofrestredig), ym mharagraff 2(4), ar ôl “the requirements of this paragraph” mewnosoder “or of regulations made by the Welsh Ministers under it”.

## 8 Gwrthod ceisiadau a ailadroddir etc

Yn Rhan 1 o Atodlen 1 i [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (ceisiadau am gydsyniad heneb gofrestredig), ar ôl paragraff 2A mewnosoder—

“2B (1) The Welsh Ministers may refuse to entertain an application for scheduled monument consent if—

- (a) within the period of 2 years ending with the date on which the application is received, the Welsh Ministers have refused a similar application; and
- (b) in their opinion, there has been no significant change in any material considerations since the similar application was refused.

(2) The Welsh Ministers may refuse to entertain an application for scheduled monument consent if the application is made at a time when a similar application is under consideration.

(3) For the purposes of this paragraph, an application for scheduled monument consent is to be taken to be similar to another such application only if the works to which the applications relate are, in the Welsh Ministers' opinion, the same or substantially the same.”

## 9 Y weithdrefn ar gyfer penderfynu ar geisiadau

- (1) Yn Rhan 1 o Atodlen 1 i [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (ceisiadau am gydsyniad heneb gofrestredig), ym mharagraff 3, ar ôl is-baragraff (4) mewnosoder—

“(5) This paragraph does not apply to applications for scheduled monument consent in respect of works to a scheduled monument situated in Wales.”



(2) Ar ôl paragraff 3 o'r Atodlen honno mewnosoder—

- “3A (1) This paragraph applies to applications for scheduled monument consent in respect of works to a scheduled monument situated in Wales.
- (2) The Welsh Ministers may grant scheduled monument consent in respect of all or any part of the works to which an application relates.
- (3) Before determining whether or not to grant scheduled monument consent on an application, the Welsh Ministers may—
- (a) cause a public local inquiry to be held; or
  - (b) afford to the applicant, and to any other person to whom it appears to the Welsh Ministers expedient to do so—
    - (i) an opportunity to appear before and be heard by a person appointed by the Welsh Ministers for that purpose; or
    - (ii) an opportunity to make representations to a person appointed by the Welsh Ministers for that purpose.
- (4) Before determining whether or not to grant scheduled monument consent on an application, the Welsh Ministers—
- (a) must, in every case, consider any representations made by any person with respect to that application; and
  - (b) must also, if an inquiry or hearing has been held or representations have been made in accordance with sub-paragraph (3), consider the report of the person who held the inquiry or hearing or to whom the representations were made.
- (5) The Welsh Ministers must serve notice of their decision with respect to the application on the applicant and on every person who has made representations with respect to the application.”

## 10 Digollediad am wrthod cydsyniad heneb gofrestredig

- (1) Yn adran 7 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979](#) (p.46), yn is-adran (4), ar y dechrau mewnosoder “In the case of a monument situated in England,”.
- (2) Ar ôl yr is-adran honno mewnosoder—

“(4A) In the case of a monument situation in Wales, a person is not entitled to compensation under this section by virtue of subsection (2)(b) if the works in question or any of them would or might result in the total or partial demolition or destruction of the monument, unless those works consist solely of operations involved in or incidental to the use of the site of the monument for purposes specified by the Welsh Ministers by regulations.”

*Cytundebau sy'n ymwneud â henebion cofrestredig*

## 11 Cytundebau partneriaeth dreftadaeth

- (1) Ar ôl adran 9 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979](#) (p.46) mewnosoder—

*“Agreements concerning scheduled monuments etc: Wales*

**9ZA Heritage partnership agreement**

- (1) The Welsh Ministers may enter into an agreement under this section (a “heritage partnership agreement”) with the owner of—
  - (a) a scheduled monument situated in Wales; or
  - (b) any land adjoining or in the vicinity of such a scheduled monument (“associated land”).
- (2) Any of the following may also be a party to a heritage partnership agreement (in addition to the owner and the Welsh Ministers)—
  - (a) any occupier of the scheduled monument or its associated land;
  - (b) any person with an interest in the scheduled monument or its associated land;
  - (c) any person involved in the management of the scheduled monument or its associated land;
  - (d) any local authority in whose area the scheduled monument or its associated land is situated;
  - (e) any local authority which is a guardian of the scheduled monument or its associated land by virtue of this Act;
  - (f) any other person who appears to the Welsh Ministers appropriate as having a special knowledge of, or interest in, the scheduled monument, or in monuments of special historic or archaeological interest more generally.
- (3) A heritage partnership agreement may contain provision—
  - (a) granting scheduled monument consent under section 2(3) for specified works for the purpose of removing or repairing the scheduled monument to which the agreement relates or any part of it, or of making any alterations or additions to the monument; and
  - (b) specifying any conditions to which the consent is subject (whether with respect to the manner in which or the persons by whom the works or any of the works are to be executed or otherwise).
- (4) A heritage partnership agreement may also—
  - (a) specify or describe works that would, or would not, in the view of the parties to the agreement, constitute works to which section 2 applies;
  - (b) make provision about the maintenance and preservation of the scheduled monument or its associated land;
  - (c) make provision about the carrying out of specified works, or the doing of any specified thing, in relation to the scheduled monument or its associated land;
  - (d) provide for public access to the scheduled monument or its associated land and the provision of associated facilities, information or services to the public;
  - (e) restrict access to, or use of, the scheduled monument or its associated land;

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- (f) prohibit the doing of any specified thing in relation to the scheduled monument or its associated land;
  - (g) provide for the Welsh Ministers, or any local authority in whose area the scheduled monument or its associated land is situated, to make payments of specified amounts and on specified terms—
    - (i) for, or towards, the cost 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.
- (5) In this section “specified” means specified or described in the heritage partnership agreement.
- (6) In this section and in section 9ZB “owner”, in relation to a scheduled monument or its associated land, means a person who is for the time being—
  - (a) the estate owner in respect of the fee simple in the monument or its associated land (as the case may be); or
  - (b) entitled to a tenancy of the monument or its associated land (as the case may be) for a term of years certain of which not less than 7 years remains unexpired.
- (7) Where more than one person is the owner of a scheduled monument or its associated land, the references in subsection (1) and in section 9ZB(2)(b) to the owner are to any one or more of those persons.

### **9ZB Heritage partnership agreement: supplemental**

- (1) A heritage partnership agreement—
  - (a) must be in writing;
  - (b) must make provision for the parties to review its terms at intervals specified in the agreement;
  - (c) must make provision for its termination and variation; and
  - (d) may contain incidental and consequential provision.
- (2) A heritage partnership agreement may relate to more than one scheduled monument, provided that the following are parties to the agreement in each case—
  - (a) the Welsh Ministers; and
  - (b) the owner of the scheduled monument or the owner of land adjoining or in the vicinity of the scheduled monument.
- (3) The Welsh Ministers must by regulations make provision—
  - (a) about the consultation that must take place before a heritage partnership agreement is made or varied;
  - (b) about the publicity that must be given to a heritage partnership agreement before or after it is made or varied;
  - (c) specifying terms that must be included in a heritage partnership agreement; and
  - (d) enabling the Welsh Ministers to terminate by order a heritage partnership agreement or any provision of such an agreement.

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- (4) Regulations made under subsection (3)(a) must require the Welsh Ministers to consult the following persons before entering into a heritage partnership agreement under section 9ZA(1)(a)—
- (a) the owner of the scheduled monument to which the proposed agreement relates;
  - (b) any occupier of the scheduled monument;
  - (c) any local authority in whose area the scheduled monument is situated;
  - (d) any local authority which is a guardian of the scheduled monument.
- (5) Regulations made under subsection (3)(a) must require the Welsh Ministers to consult the following persons before entering into a heritage partnership agreement under section 9ZA(1)(b)—
- (a) the owner of the land to which the proposed agreement relates;
  - (b) any occupier of the land;
  - (c) any local authority in whose area the land is situated;
  - (d) any local authority which is a guardian of the land by virtue of this Act.
- (6) Regulations made under section (3)(d) may specify provision that may be included in an order made by virtue of that paragraph, including provision enabling such orders to contain supplementary, incidental, transitory, transitional or saving provision.
- (7) The Welsh Ministers may by regulations make provision disapplying, or applying or reproducing with or without modifications, any provision of this Act for the purposes of heritage partnership agreements.
- (8) A heritage partnership agreement cannot impose any obligation or liability, or confer any right, on a person who is not a party to the agreement (and, accordingly, scheduled monument consent granted by such an agreement enures only for the benefit of the parties to the agreement).”
- (2) Yn adran 61 o'r Ddeddf honno (dehongli)—
- (a) yn is-adran (1), yn y diffiniad o “owner”, ar ôl “(except for the purposes of” mewnosoder “sections 9ZA and 9ZB and”;
  - (b) yn is-adran (6), ar ôl “In this Act” mewnosoder “(other than in section 9ZA)”.

*Henebion cofrestredig: gorfodi*

## 12 Hysbysiadau gorfodi

- (1) Yn [Neddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#), ar ôl adran 9ZB (a fewnosodir gan adran 11) mewnosoder—

*“Scheduled monument enforcement notices*

### **9ZC Scheduled monument enforcement notice**

- (1) This section applies where it appears to the Welsh Ministers that works affecting a scheduled monument situated in Wales or land in, on or under

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which there is such a scheduled monument have been or are being carried out in contravention of section 2(1) or (6).

- (2) The Welsh Ministers may issue a notice under this section (referred to in this Part as a “scheduled monument enforcement notice”) if, having regard to the effect of the works on the monument as one of national importance, they consider that it is expedient to do so.
- (3) A scheduled monument enforcement notice must be in writing and must specify—
  - (a) the date on which the notice takes effect (see subsection (4));
  - (b) the alleged contravention;
  - (c) where the Welsh Ministers require works to cease, the works concerned and the period within which the Welsh Ministers require them to cease; and
  - (d) where the Welsh Ministers require steps of a kind referred to in subsection (5) to be taken, the steps concerned and the period within which the Welsh Ministers require them to be taken.
- (4) A scheduled monument enforcement notice takes effect on the date specified in the notice for the purposes of subsection (3)(a); and the date so specified must be at least 28 days after the date on which the notice is served in accordance with section 9ZD.
- (5) The steps mentioned in subsection (3)(d) are—
  - (a) steps for restoring the monument or land to its former state;
  - (b) if the Welsh Ministers consider restoration would not be practicable or desirable, steps for executing such further works as they consider are required to alleviate in a manner acceptable to them the effect of the works carried out without scheduled monument consent;
  - (c) if scheduled monument consent for the works has been granted, steps for bringing the monument or land to the state it would have been in if the conditions of the consent had been complied with.
- (6) A scheduled monument enforcement notice may specify different periods for different works or different steps.
- (7) Where works of the kind mentioned in subsection (5)(b) are carried out, scheduled monument consent is to be treated as having been granted in respect of the works.

#### **9ZD Scheduled monument enforcement notice: supplementary provision**

- (1) A copy of a scheduled monument enforcement notice must be served on—
  - (a) the owner of the monument or land concerned;
  - (b) if the owner is not the occupier, the occupier;
  - (c) if the monument or land is let but the lessee is not the occupier, the lessee; and
  - (d) every other person with an interest in the monument or land which is, in the opinion of the Welsh Ministers, materially affected by the notice.

- (2) The Welsh Ministers may at any time withdraw a scheduled monument enforcement notice; but that does not affect the power to issue another notice under section 9ZC.
- (3) The Welsh Ministers may at any time waive or relax any requirement imposed by a scheduled monument enforcement notice (including the length of a period specified in the notice for the purposes of section 9ZC(3)(c) or (d)).
- (4) The Welsh Ministers must, immediately after exercising the power under subsection (2) or (3), give notice of the exercise of the power to every person who has been served with a copy of the notice under subsection (1) (or who would be if the notice were to be reissued).
- (5) The Welsh Ministers—
  - (a) must publish by electronic means a list containing particulars of each monument in respect of which a scheduled monument enforcement notice has effect; and
  - (b) must, on request, provide a copy of a scheduled monument enforcement notice the particulars of which are contained in the list.

#### **9ZE Scheduled monument enforcement notice: appeal**

- (1) A person on whom a scheduled monument enforcement notice is served, or any other person with an interest in the monument or land concerned, may appeal to a magistrates' court against the notice.
- (2) An appeal under this section must be brought before the date specified in the notice for the purposes of section 9ZC(3)(a).
- (3) An appeal under this section may be brought on any of the following grounds—
  - (a) that the matters alleged to constitute the contravention specified for the purposes of section 9ZC(3)(b) have not occurred;
  - (b) that those matters, in so far as they have occurred, do not constitute a contravention of section 2(1) or (6);
  - (c) that works to the monument or land were urgently necessary in the interests of safety or health and that—
    - (i) it was not practicable to secure safety or health by works of repair or works for affording temporary support or shelter;
    - (ii) the works carried out were limited to the minimum measures immediately necessary; and
    - (iii) written notice justifying in detail the need for the works was given to the Welsh Ministers as soon as reasonably practicable;
  - (d) that a copy of the notice was not served as required by section 9ZD;
  - (e) that a period specified for the purposes of section 9ZC(3)(c) or (d) falls short of what should reasonably be allowed.
- (4) Where an appeal under this section is brought, the notice is of no effect until the appeal is finally determined or withdrawn.
- (5) On an appeal under this section, a magistrates' court may uphold the notice or quash it.

- (6) The court may uphold a notice even if copies of it have not been served in accordance with section 9ZD if the court is satisfied that no person on whom a copy should have been, but was not, served has been substantially prejudiced by the failure.

#### **9ZF Scheduled monument enforcement notice: power of entry**

- (1) A person duly authorised in writing by the Welsh Ministers may at any reasonable time enter any land for any of the following purposes—
- (a) ascertaining whether a scheduled monument enforcement notice should be served;
  - (b) securing that a scheduled monument enforcement notice is affixed for the purposes of service in accordance with section 56(2)(b);
  - (c) ascertaining whether a scheduled monument enforcement notice has been complied with.
- (2) If steps specified in a scheduled monument enforcement notice for the purposes of section 9ZC(3)(d) have not been taken within the period so specified, a person duly authorised by the Welsh Ministers may—
- (a) at any reasonable time enter the land in, on or under which the monument is situated and take the steps concerned; and
  - (b) recover from the person who is then the owner or lessee of the monument or land expenses incurred by them in doing so.
- (3) The liability under subsection (2)(b) of a person who is the owner of a monument or land merely by virtue of being entitled to receive the rack rent as trustee for another person is limited to the total amount of money the person has or has had by virtue of that entitlement.
- (4) Where, on a claim by the owner of a scheduled monument or land, it appears to a magistrates' court that the occupier of the monument or land is preventing the owner from carrying out the work required by a scheduled monument enforcement notice, the court may by warrant authorise the owner to enter the land and carry out the work.

#### **9ZG Failure to comply with scheduled monument enforcement notice**

- (1) This section applies where after the end of a period specified in a scheduled monument enforcement notice for the purposes of section 9ZC(3)(c) or (d)—
- (a) the works specified as being required to cease have not ceased; or
  - (b) the steps specified as being required to be taken have not been taken.
- (2) The person who is for the time being owner of the scheduled monument or of the land in, on or under which it is situated is in breach of the notice.
- (3) If the owner of a monument or land is in breach of a scheduled monument enforcement notice, the owner is guilty of an offence.
- (4) An offence under this section may be charged by reference to a day or to some longer period; accordingly, a person may, in relation to the same scheduled monument enforcement notice, be convicted of more than one offence under this section by reference to different periods.

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- (5) In proceedings against a person for an offence under this section, it is a defence for the person to prove that the person did everything the person could be expected to do to secure that—
  - (a) in a case concerning works required to cease, the works did cease; or
  - (b) in a case concerning steps required to be taken, the steps were taken.
- (6) 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 scheduled monument enforcement notice.
- (7) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.
- (8) In determining the amount of a fine to be imposed on a person convicted 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 execution of the works to which the scheduled monument enforcement notice relates.

#### **9ZH Effect of scheduled monument consent on notice**

- (1) This section applies if, after the issue of a scheduled monument enforcement notice, consent is granted under section 2(3A)—
  - (a) for the retention of any work to which the notice relates; or
  - (b) permitting the retention of works without complying with a condition subject to which a previous scheduled monument consent was granted.
- (2) The notice ceases to have effect in so far as it—
  - (a) requires the work or works to cease;
  - (b) requires steps to be taken involving the works not being retained; or
  - (c) requires steps to be taken for complying with that condition.”
- (2) Yn adran 46 o’r Ddeddf honno (digollediad am ddifrod a achosir drwy arfer pwerau penodol), yn is-adran (3), ar ôl “section 6, 6A,” mewnosoder “9ZF,”.

### **13 Hysbysiadau stop dros dro**

- (1) Yn [Neddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#), ar ôl adran 9ZH (a fewnosodir gan adran 12) mewnosoder—

*“Scheduled monuments: temporary stop notices*

#### **9ZI Temporary stop notice**

- (1) This section applies where it appears to the Welsh Ministers that works affecting a scheduled monument situated in Wales or land in, on or under which there is such a scheduled monument have been or are being carried out in contravention of section 2(1) or (6).



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- (2) The Welsh Ministers may issue a notice under this section (referred to in this Part as a “temporary stop notice”) if, having regard to the effect of the works on the monument as one of national importance, they consider that it is expedient that the works are stopped immediately (or that part of them is).
- (3) A temporary stop notice must be in writing and must—
  - (a) specify the works in question;
  - (b) prohibit execution of the works (or so much of them as is specified in the notice);
  - (c) set out the Welsh Ministers’ reasons for issuing the notice; and
  - (d) include a statement of the effect of section 9ZK.
- (4) A temporary stop notice may be served on a person who appears to the Welsh Ministers—
  - (a) to be carrying out the works or causing them to be carried out; or
  - (b) to have an interest in the monument or land.
- (5) The Welsh Ministers must display a copy of the notice on the monument or land (except where doing so might damage the monument, in which case it is sufficient to display the notice in a prominent position as close to the monument or land as is reasonably practicable); and the copy must specify the date on which it is first displayed.
- (6) A temporary stop notice takes effect when the copy of it is first displayed in accordance with subsection (5).
- (7) A temporary stop notice ceases to have effect—
  - (a) at the end of the period of 28 days beginning with the day on which the copy of it is first displayed in accordance with subsection (5); or
  - (b) if the notice specifies a shorter period beginning with that day, at the end of that period.
- (8) But if the Welsh Ministers withdraw the notice before the time when it would otherwise cease to have effect under subsection (7), the notice ceases to have effect on its withdrawal.
- (9) The Welsh Ministers may not issue a subsequent temporary stop notice in relation to the same works unless they have, since issuing the previous notice, taken other enforcement action in relation to the contravention referred to in subsection (1).
- (10) The reference in subsection (9) to taking other enforcement action includes a reference to obtaining an injunction under section 9ZM.

### **9ZJ Temporary stop notice: power of entry**

A person duly authorised in writing by the Welsh Ministers may at any reasonable time enter any land for any of the following purposes—

- (a) ascertaining whether a temporary stop notice should be served;
- (b) securing the display of a temporary stop notice or securing that it is affixed for the purposes of service in accordance with section 56(2)(b);
- (c) ascertaining whether a temporary stop notice has been complied with;

- (d) considering a claim for compensation under section 9ZL.

**9ZK Temporary stop notice: offence**

- (1) A person is guilty of an offence if the person contravenes, or causes or permits a contravention of, a temporary stop notice—
  - (a) which has been served on the person; or
  - (b) a copy of which has been displayed in accordance with section 9ZI(5).
- (2) An offence under this section may be charged by reference to a day or to some longer period; accordingly, a person may, in relation to the same temporary stop notice, be convicted of more than one offence under this section 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 against a person for an offence under this section, it is a defence for the person to prove—
  - (a) that the works were urgently necessary in the interests of safety or health; and
  - (b) that notice in writing of the need for the works was given to the Welsh Ministers 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 a fine to be imposed on a person convicted 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.

**9ZL Temporary stop notice: compensation**

- (1) A person who, on the day when a temporary stop notice is first displayed in accordance with section 9ZI(5), has an interest in the monument or land concerned is, on making a claim to the Welsh Ministers within the prescribed time and manner, entitled to be paid compensation by them in respect of any loss or damage directly attributable to the effect of the notice.
- (2) But subsection (1) applies only if—
  - (a) the works specified in the notice do not contravene section 2(1) or (6); or
  - (b) the Welsh Ministers withdraw the notice other than following the grant of scheduled monument consent, after the day mentioned in subsection (1), which authorises the works.
- (3) The loss or damage in respect of which compensation is payable under this section includes a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the notice.
- (4) No compensation is payable under this section in the case of loss or damage suffered by a claimant if—

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- (a) the claimant was required to provide information under section 57, and
  - (b) the loss or damage could have been avoided if the claimant had provided the information or otherwise co-operated with the Welsh Ministers when responding to the notice.”
- (2) Yn adran 27 o’r Ddeddf honno (darpariaethau cyffredinol o ran digollediad am ddibrisiant o dan Ran 1 o’r Ddeddf), yn is-adran (2), ar ôl “section 1AD, 7, 9”(a fewnosodir gan adran 4) mewnosoder “or 9ZL”.
- (3) Yn adran 44 o’r Ddeddf honno (darpariaethau atodol mewn cysylltiad â phwerau mynediad), yn is-adran (2), ar y diwedd mewnosoder—  
“, or in relation to the power of entry under section 9ZJ of this Act where it is exercised for any of the purposes mentioned in paragraphs (a) to (c) of that section.”
- (4) Yn adran 46 o’r Ddeddf honno (digollediad am ddifrod a achosir drwy arfer pwerau penodol), yn is-adran (3), ar ôl “9ZF,” (a fewnosodir gan adran 12) mewnosoder “9ZJ,”.
- (5) Yn adran 51 o’r Ddeddf honno (eiddo eglwysig), yn is-adran (3), ar ôl “1AD,” (a fewnosodir gan adran 4) mewnosoder “9ZL,”.

## 14 Gwaharddebau

Yn [Neddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#), ar ôl adran 9ZL (a fewnosodir gan adran 13) mewnosoder—

*“Scheduled monuments: injunctions*

### **9ZM Injunctions**

- (1) This section applies where the Welsh Ministers consider it necessary or expedient for any actual or apprehended contravention of section 2(1) or (6) in respect of a scheduled monument situated in Wales or land in, on or under which there is such a scheduled monument to be restrained by injunction.
- (2) The Welsh Ministers may apply to the High Court or the county court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Act.
- (3) On an application under subsection (2), the court may grant such an injunction as it thinks appropriate for the purpose of restraining the contravention.”

*Addasiadau sy’n ymwneud â throeddau*

## 15 Rheoli gwaith sy’n effeithio ar henebion cofrestredig

- (1) Mae adran 2 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (rheoli gwaith sy’n effeithio ar henebion cofrestredig) wedi ei diwygio fel a ganlyn.

(2) Yn is-adran (8), ar ôl “works within subsection (2)(a) or (c) above” mewnosoder “which have been executed in relation to a scheduled monument situated in England or land in, on or under which there is such a scheduled monument”.

(3) Ar ôl yr is-adran honno mewnosoder—

“(8A) In any proceedings for an offence under this section in relation to works within subsection (2)(a) or (c) which have been executed in relation to a scheduled monument situated in Wales or land in, on or under which there is such a scheduled monument, it is a defence for the accused to prove that, before executing the works or before causing or permitting their execution (as the case may be), the accused—

- (a) had taken all reasonable steps to find out whether there was a scheduled monument in the area affected by the works; and
- (b) did not know, and had no reason to believe, that the monument was within the area affected by the works or (as the case may be) that it was a scheduled monument.”

## 16 Difrodi henebion hynafol penodol

(1) Mae adran 28 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (y drosedd o ddiffrodi henebion hynafol penodol) wedi ei diwygio fel a ganlyn.

(2) Yn is-adran (1), ar ôl “any protected monument” mewnosoder “situated in England”.

(3) Ar ôl yr is-adran honno mewnosoder—

“(1A) A person who without lawful excuse destroys or damages a protected monument situated in Wales is guilty of an offence if the person—

- (a) knew or ought reasonably to have known that it was a protected monument; and
- (b) intended to destroy or damage the monument or was reckless as to whether the monument would be damaged or destroyed.”

## 17 Cyfyngiadau ar y defnydd o ddatgelyddion metel

(1) Mae adran 42 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (cyfyngiadau ar y defnydd o ddatgelyddion metel) wedi ei diwygio fel a ganlyn.

(2) Yn is-adran (7), ar ôl “an offence under subsection (1) or (3) above” mewnosoder “relating to a protected place situated in England”.

(3) Ar ôl yr is-adran honno mewnosoder—

“(8) In proceedings for an offence under subsection (1) or (3) relating to a protected place situated in Wales, it is a defence for the accused to prove that the accused—

- (a) had taken all reasonable steps to find out whether the place in which the metal detector was used was a protected place; and
- (b) did not know, and had no reason to believe, that the place was a protected place.”

*Parciau a gerddi hanesyddol*

**18 Cofrestr o barciau a gerddi hanesyddol**

- (1) Ar ddechrau Rhan 3 o **Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979** (p.46) (darpariaethau amrywiol) mewnosoder—

*“Register of historic parks and gardens in Wales*

**41A Register of historic parks and gardens in Wales**

- (1) The Welsh Ministers must compile and maintain a register (to be known as “the register of historic parks and gardens”) of such of the following grounds in Wales as appear to them to be of special historic interest—
- (a) parks;
  - (b) gardens;
  - (c) designed ornamental landscapes;
  - (d) places of recreation;
  - (e) other designed grounds.
- (2) The Welsh Ministers must decide whether, or to what extent, it would be appropriate to include as part of the registration of grounds of a description referred to in subsection (1)—
- (a) any building or water on, or adjacent or contiguous to, those grounds; or
  - (b) any land adjacent or contiguous to those grounds.
- (3) For the purpose of maintaining the register, the Welsh Ministers may from time to time modify it by—
- (a) adding an entry;
  - (b) removing an entry; or
  - (c) amending an entry.
- (4) As soon as reasonably practicable after including grounds in the register or modifying the register, the Welsh Ministers must inform—
- (a) the owner of the grounds in question;
  - (b) if the owner is not the occupier, the occupier; and
  - (c) each local authority or National Park authority in whose area the grounds are situated.
- (5) Where the Welsh Ministers include grounds in the register or modify the register under subsection (3)(a) or (c), the duty to inform under subsection (4) also includes a duty to send each of the persons concerned a copy of the entry or modified entry (as the case may be).
- (6) The Welsh Ministers must publish the up-to-date register in such manner as they think appropriate.”
- (2) Yn adran 50 o’r Ddeddf honno (cymhwyso’r Ddeddf i dir y Goron), ar ôl is-adran (3) mewnosoder—

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“(3A) Crown land may be included in the register of historic parks and gardens (see section 41A).”

### *Amrywiol*

## **19 Tir y credir bod heneb hynafol arno: pŵer mynediad**

Yn adran 26 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (pŵer mynediad i dir y credir bod heneb hynafol arno), ar y diwedd mewnosoder—

“(4) But subsection (3) does not apply in relation to excavations in the land by a person authorised by the Welsh Ministers under subsection (1) if the Welsh Ministers know or have reason to believe that an ancient monument they know or believe to be in, on or under the land is or may be at risk of imminent damage or destruction.”

## **20 Henebion mewn dyfroedd tiriogaethol**

(1) Yn adran 53 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (henebion mewn dyfroedd tiriogaethol), yn is-adran (2), ar ôl “shall describe the monument as lying off the coast of England, or of Scotland, or of Wales; and” mewnosoder “, subject to subsection (2B),”.

(2) Ar ôl is-adran (2) o’r adran honno mewnosoder—

“(2A) The functions under this Act conferred on the Welsh Ministers by the Historic Environment (Wales) Act 2016 (as well as those already transferred to them) are exercisable in relation to Wales within the meaning of the Government of Wales Act 2006 (which includes the sea adjacent to Wales out as far as the seaward boundary of the territorial sea (see section 158(1) of that Act)).

(2B) Accordingly, a monument is not to be treated by virtue of section 53(2) as being in Wales unless it is situated in Wales within the meaning of section 158(1) of the Government of Wales Act 2006.”

## **21 Cyflwyno dogfennau drwy gyfathrebiadau electronig**

(1) Yn adran 56 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (cyflwyno dogfennau), yn is-adran (1), ar ôl paragraff (c) mewnosoder—

“(ca) in a case where—

(i) the notice or other document relates to a monument situated in Wales or land in Wales; and

(ii) an address for service using electronic communications has been given by that person,

by sending it using an electronic communication, in accordance with the condition set out in subsection (1A); or”.

(2) Ar ôl is-adran (1) o’r adran honno mewnosoder—

“(1A) The condition mentioned in subsection (1)(ca) is that the notice or document must be—

(a) capable of being accessed by the person mentioned in that provision;

- (b) legible in all material respects; and
  - (c) in a form sufficiently permanent to be used for subsequent reference; and for this purpose “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served or given by means of a notice or document in printed form.”
- (3) Ar ôl is-adran (2) o’r adran honno mewnosoder—
- “(3) In this section, “Wales” has the same meaning as in the Government of Wales Act 2006 (see section 158(1) of that Act).”
- (4) Yn adran 61 o’r Ddeddf honno (dehongli), yn is-adran (1), mewnosoder yn y lle priodol—
- ““address”, in relation to electronic communications, means a number or address used for the purposes of such communications;”;
- ““electronic communication” has the same meaning as in the Electronic Communications Act 2000;”.
- (5) Ar ôl is-adran (2A) o’r adran honno mewnosoder—
- “(2B) Where—
- (a) an electronic communication is used for the purpose of serving or giving a notice or other document on or to any person for the purposes of this Act; and
  - (b) the communication is received by that person outside that person’s business hours,
- it is to be treated as having been received on the next working day; and in this subsection “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.”

## 22 Ystyr “monument” yn Neddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979

- (1) Mae adran 61 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#) (dehongli) wedi ei diwygio fel a ganlyn.
- (2) Yn is-adran (7)—
- (a) hepgorer yr “and” ar ôl paragraff (b);
  - (b) ar ôl paragraff (c) mewnosoder “and
  - (d) any site in Wales (other than one falling within paragraph (b) or (c) above) comprising any thing, or group of things, that evidences previous human activity;”.
- (3) Ar ôl is-adran (7) mewnosoder—
- “(7A) In subsection (7)(d) “Wales” has the meaning given by section 158(1) of the Government of Wales Act 2006.”

## RHAN 3

### ADEILADAU RHESTREDIG

#### *Trosolwg*

#### 23 Trosolwg o'r Rhan hon

Mae'r Rhan hon yn ymwneud â gwarchod adeiladau yng Nghymru sydd o ddiddordeb pensaernïol neu hanesyddol arbennig. Mae'n gwneud darpariaeth—

- (a) i Weinidogion Cymru ymgynghori cyn cynnwys adeilad mewn rhestr o adeiladau, neu eithrio adeilad o restr o adeiladau, o dan adran 1 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) (“Deddf 1990”) (adran 24);
- (b) i roi gwarchodaeth statudol i adeilad wrth i Weinidogion Cymru benderfynu pa un ai i gynnwys yr adeilad mewn rhestr (adran 24);
- (c) i Weinidogion Cymru adolygu eu penderfyniad i gynnwys adeilad mewn rhestr (adran 24);
- (d) ar gyfer addasu'r trefniadau rhestru dros dro a gychwynnir drwy gyflwyno hysbysiad diogelu adeilad yng ngoleuni'r ddarpariaeth a grybwyllir ym mharagraffau (a) a (b) (adran 25);
- (e) i Weinidogion Cymru ardystio nad ydynt yn bwriadu cynnwys adeilad penodol mewn rhestr (adran 27);
- (f) i awdurdod cynllunio lleol neu Weinidogion Cymru ymrwmo i gytundeb â pherchennog adeilad rhestredig ynghylch materion megis cydsyniad i waith gael ei wneud i'r adeilad (adran 28);
- (g) i awdurdod cynllunio lleol ddyroddi hysbysiad stop dros dro mewn achos sy'n ymwneud â gwaith penodol i adeilad rhestredig (adran 29);
- (h) i estyn cwmpas y gwaith brys y caiff awdurdod cynllunio lleol ei wneud o dan Ddeddf 1990 ac i ddarparu i gostau'r awdurdod wrth wneud y gwaith hwnnw fod yn adenilladwy fel pridiant tir lleol (adran 30);
- (i) i alluogi Gweinidogion Cymru i wneud rheoliadau ynghylch camau pellach y caniateir iddynt gael eu cymryd i sicrhau bod adeiladau rhestredig yng Nghymru sydd wedi mynd i gyflwr gwael yn cael eu diogelu'n briodol (adran 31);
- (j) i alluogi cyflwyno drwy gyfathrebiadau electronig fathau penodol o hysbysiadau a dogfennau eraill sy'n ymwneud ag adeiladau rhestredig (adran 32);
- (k) mewn perthynas â phenderfynu ar apelau penodol sy'n ymwneud ag adeiladau rhestredig gan bersonau a benodir gan Weinidogion Cymru (adran 33).

*Rhestru adeiladau o ddiddordeb pensaernïol neu hanesyddol arbennig*

#### 24 Diwygiadau sy'n ymwneud â rhestru adeiladau

- (1) Ar ôl adran 2 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) mewnosoder—



### **“2A Duty to consult on certain changes to lists**

- (1) This section applies where the Welsh Ministers are proposing to—
  - (a) include a building in a list compiled or approved under section 1; or
  - (b) exclude a building from such a list.
- (2) The Welsh Ministers must—
  - (a) serve a notice of the proposed inclusion or exclusion on the appropriate persons; and
  - (b) invite those persons to submit written representations about the proposal.
- (3) The appropriate persons are—
  - (a) the owner and occupier of the building;
  - (b) the local planning authority in whose area the building is situated; and
  - (c) such other persons or bodies of persons as appear to the Welsh Ministers appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.
- (4) A notice under subsection (2) must—
  - (a) specify the proposed inclusion or exclusion;
  - (b) specify the period within which representations about the proposal may be made, which must be at least 28 days beginning with the date on which the notice is served; and
  - (c) in the case of a proposed inclusion—
    - (i) include a statement of the effect of section 2B; and
    - (ii) specify the date on which interim protection takes effect under subsection (2) of that section.
- (5) The Welsh Ministers may by regulations amend subsection (3) by adding a description of person to the list of appropriate persons in that subsection; and where the Welsh Ministers do so, they may also make such amendments to this Act as they consider appropriate in consequence of the amendment to subsection (3).

### **2B Interim protection pending certain listing decisions**

- (1) This section applies where the Welsh Ministers consult under section 2A on a proposal to include a building in a list compiled or approved under section 1.
- (2) The provisions of this Act (other than sections 47 to 51 and 59) and the principal Act have effect in relation to the building, from the beginning of the day specified in the notice for the purposes of section 2A(4)(c)(ii), as if the building were a listed building.
- (3) The protection conferred upon a building by virtue of subsection (2) is referred to in this Act as “interim protection”.
- (4) Interim protection conferred by virtue of subsection (2) ceases to have effect—

- (a) where the Welsh Ministers include the building in a list compiled or approved under section 1, from the beginning of the day specified in the notice for the purposes of section 2D(2)(b); and
  - (b) where the Welsh Ministers decide not to include the building in such a list, from the beginning of the day specified in a notice issued to—
    - (i) the owner and occupier of the building; and
    - (ii) the local planning authority in whose area the building is situated.
- (5) The Welsh Ministers—
- (a) must publish by electronic means a list containing particulars of each building in relation to which interim protection has effect; and
  - (b) must, on request, provide a copy of the notice served under section 2A(2) in respect of such a building.

## **2C Provisions applicable on lapse of interim protection**

Schedule 1A has effect as respects the lapse of interim protection.

## **2D Review of certain listing decisions**

- (1) This section applies where the Welsh Ministers include a building in a list compiled or approved under section 1.
- (2) As soon as possible after amending the list to include the building, the Welsh Ministers must serve on the owner and occupier of the building a notice which—
  - (a) states that the Welsh Ministers have included the building in the list;
  - (b) specifies the date on which the Welsh Ministers did so (and on which interim protection under section 2B(2) ceased to have effect); and
  - (c) states that the owner or occupier may make an application to the Welsh Ministers requesting them to review their decision to do so.
- (3) Where an owner or occupier of the building makes such an application, the Welsh Ministers must—
  - (a) carry out the review requested;
  - (b) make a decision on the review; and
  - (c) make such amendment to the list as they consider appropriate to give effect to that decision.
- (4) Except as provided in sections 62 and 63, the validity of a decision of the Welsh Ministers on the review is not to be questioned in any legal proceedings.
- (5) The Welsh Ministers must carry out a review under this section in such one or more of the following ways as appears to them to be appropriate—
  - (a) by means of a local inquiry;
  - (b) by means of a hearing;
  - (c) on the basis of written representations.
- (6) The Welsh Ministers must by regulations make provision about—
  - (a) the grounds on which an application for a review under this section may be made;

- (b) the form and manner in which such an application must be made;
  - (c) the information that must be provided to, or may be required by, the Welsh Ministers in connection with such an application; and
  - (d) the period within which such an application must be made.
- (7) The Welsh Ministers may by regulations make further provision in connection with reviews under this section.
- (8) Schedule 1B applies to reviews under this section.”
- (2) Yn adran 9 o’r Ddeddf honno (troseddau), ar ôl is-adran (3) mewnosoder—
- “(3A) In proceedings for an offence under this section in relation to a building on which interim protection is conferred (which is, as a result of section 2B(2), treated as a listed building)—
- (a) it is a defence for the person to show that the person did not know, and could not reasonably have been expected to know, that interim protection had been conferred on the building; and
  - (b) where the defence is raised by a person on whom a notice should have been served under section 2A(2), it is for the prosecution to prove that the notice was served on that person.”
- (3) Ar ôl adran 28A o’r Ddeddf honno mewnosoder—

#### **“28B Compensation for loss or damage caused by interim protection**

- (1) This section applies where interim protection in respect of a building ceases to have effect as a result of the issue of a notice by the Welsh Ministers under section 2B(4)(b).
  - (2) Any person who, at the time when the interim protection took effect, had an interest in the building is, on making a claim to the Welsh Ministers within the prescribed time and in the prescribed manner, entitled to be paid compensation by the Welsh Ministers in respect of any loss or damage directly attributable to the effect of the protection.
  - (3) The loss or damage in respect of which compensation is payable under subsection (2) includes a sum payable in respect of any breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the interim protection having effect.”
- (4) Ar ôl Atodlen 1 i’r Ddeddf honno mewnosoder yr Atodlenni 1A ac 1B a nodir yn Atodlen 2 i’r Ddeddf hon.

## **25 Diwygiadau sy’n ymwneud â rhestru dros dro**

- (1) Yn adran 3 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) (rhestru dros dro: hysbysiadau diogelu adeiladau), yng ngeiriau agoriadol is-adran (1), yn lle’r geiriau o’r dechrau i “county planning authority,” rhodder “If it appears to a local planning authority in England who are not a county planning authority”.
- (2) Yn y pennawd i’r adran honno, ar ôl “listing” mewnosoder “in England”.
- (3) Ar ôl yr adran honno mewnosoder—

**“3A Temporary listing in Wales: building preservation notices**

- (1) If it appears to a local planning authority in Wales that a building in their area which is not a listed building (and which is not treated as such by virtue of section 2B(2))—
  - (a) is of special architectural or historic interest; and
  - (b) is in danger of demolition or of alteration in such a way as to affect its character as a building of such interest,they may serve a notice on the owner and occupier of the building (in this Act referred to as a “building preservation notice”).
- (2) A building preservation notice under this section must—
  - (a) state that the building appears to them to be of special architectural or historic interest and that they have requested the Welsh Ministers to consider including it in a list compiled or approved under section 1; and
  - (b) explain the effect of subsections (3) to (5) and Schedule 2.
- (3) A building preservation notice under this section—
  - (a) comes into force as soon as it has been served on both the owner and occupier of the building to which it relates; and
  - (b) subject to subsection (4), remains in force for six months from the date when it is served or, as the case may be, last served.
- (4) A building preservation notice under this section ceases to be in force—
  - (a) if interim protection under section 2B(2) takes effect in relation to the building; or
  - (b) if the Welsh Ministers notify the local planning authority in writing that they do not intend to consult under section 2A on a proposal to include the building in a list compiled or approved under section 1.
- (5) While a building preservation notice under this section is in force with respect to a building, the provisions of this Act (other than sections 47 to 51 and 59) and the principal Act have effect in relation to the building as if it were a listed building.
- (6) If, following the service of a building preservation notice under this section, interim protection under section 2B(2) takes effect in relation to the building, anything done by virtue of subsection (5) is to be treated as having been done by virtue of section 2B(2).
- (7) If, following the service of a building preservation notice under this section, the Welsh Ministers notify the local planning authority that they do not intend to consult under section 2A on a proposal to include the building in a list compiled or maintained under section 1, the authority must immediately give notice of that decision to the owner and occupier of the building.
- (8) Where such a notification is given by the Welsh Ministers, no further building preservation notice in respect of the building may be served by the local planning authority within the period of 12 months beginning with the date of the notification.”

- (4) Yn adran 28B o'r Ddeddf honno (digollediad am golled neu ddifrod a achosir gan warchodaeth interim) (a fewnosodir gan adran 24), ar y diwedd mewnosoder—

“(4) Subsection (5) applies where—

- (a) a building preservation notice was in force in respect of the building before interim protection took effect; and
- (b) the notice ceased to be in force by virtue of section 3A(4)(a).

(5) In such a case—

- (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 building preservation notice came into force;
- (b) the reference in that subsection to loss or damage directly attributable to the effect of the interim protection is to be treated as including a reference to loss or damage directly attributable to the effect of the building preservation notice being in force; and
- (c) the reference in subsection (3) to the necessity of discontinuing or countermanding works on account of the interim protection having effect is to be treated as including a reference to the necessity of discontinuing or countermanding works on account of the building preservation notice being in force.”

- (5) Yn adran 29 o'r Ddeddf honno (digollediad am golled neu ddifrod a achosir drwy gyflwyno hysbysiad diogelu adeilad)—

- (a) yn is-adran (1), ar ôl “a building preservation notice” mewnosoder “in respect of a building situated in England”, a
- (b) ar ôl yr is-adran honno mewnosoder—

“(1A) This section also applies where a building preservation notice in respect of a building situated in Wales ceases to have effect by virtue of section 3A(3)(b) or (4)(b).”

- (6) Yn Atodlen 2 i'r Ddeddf honno (darfodiad hysbysiad diogelu adeilad), ym mharagraff 1—

- (a) hepgorer yr “or” ar ôl paragraff (a), a
- (b) ar ôl paragraff (b) mewnosoder—

“(c) the expiry of the six month period mentioned in subsection (3)(b) of section 3A; or

- (d) the service of a notification by the Welsh Ministers under subsection (4)(b) of that section.”

## 26 Diwygiadau sy'n ymwneud â rhestru adeiladau: darpariaeth ganlyniadol

- (1) Yn adran 1 o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990 (p.9) (rhestru adeiladau o ddi-ddordeb pensaernïol neu hanesyddol arbennig)—

- (a) yn is-adran (4)—

(i) yn y geiriau agoriadol, ar ôl “any list under this section” mewnosoder “in relation to buildings which are situated in England”, a

(ii) ym mharagraff (a), hepgorer “in relation to buildings which are situated in England”, a

- (b) ar ôl is-adran (4) mewnosoder—

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*Statws This is the original version (as it was originally enacted).*

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“(4A) Section 2A makes provision about consultation on amendments of any list under this section to include or exclude a building which is situated in Wales.”

(2) Yn adran 2 o’r Ddeddf honno (cyhoeddi rhestrau), yn is-adran (3)—

(a) yn y geiriau agoriadol—

(i) ar ôl “any building”, yn y lle cyntaf y mae’n digwydd, mewnosoder “situated in England”, a

(ii) yn lle “any building”, yn yr ail le y mae’n digwydd, rhodder “any such building”, a

(b) ym mharagraff (a), hepgorer “, Welsh county, county borough,”.

(3) Yn yr adran honno, ar ôl is-adran (3) mewnosoder—

“(3A) As soon as possible after amending a list under section 1 to include or exclude a building which is situated in Wales, the Welsh Ministers—

(a) must inform the local planning authority in whose area the building is situated of its inclusion or exclusion; and

(b) in the case of an amendment to exclude a building, must serve a notice on every owner and occupier of the building, stating that the building has been excluded from the list.

(3B) Section 2D makes provision about the further steps that the Welsh Ministers must take after amending a list under section 1 to include a building which is situated in Wales.”

(4) Yn adran 3 o’r Ddeddf honno (rhestru dros dro: hysbysiadau diogelu adeiladau)—

(a) yng ngeiriau agoriadol is-adran (2), ar ôl “a local planning authority” mewnosoder “under this section”,

(b) yng ngeiriau agoriadol is-adran (3), ar ôl “building preservation notice” mewnosoder “under this section”,

(c) yng ngeiriau agoriadol is-adran (4), ar ôl “building preservation notice” mewnosoder “under this section”,

(d) yn is-adran (5), ar ôl “building preservation notice” mewnosoder “under this section”, ac

(e) yn is-adran (6), ar ôl “building preservation notice” mewnosoder “under this section”.

(5) Yn adran 4 o’r Ddeddf honno (rhestru dros dro mewn achosion brys), yn is-adran (2), yn lle “section 3,” rhodder “sections 3 and 3A.”

(6) Yn adran 5 o’r Ddeddf honno (darpariaethau sy’n gymwys ar ddarfodiad hysbysiad diogelu adeilad)—

(a) daw’r ddarpariaeth bresennol yn is-adran (1), a

(b) ar ôl yr is-adran honno mewnosoder—

“(2) See section 3A(6) for provision as respects the lapse of building preservation notices in consequence of interim protection taking effect.”

(7) Yn adran 21 o’r Ddeddf honno (apelau: darpariaethau atodol), yn is-adran (4), ar ôl “a building with respect to which” mewnosoder “interim protection has effect or”.

- (8) Yn adran 31 o'r Ddeddf honno (darpariaethau cyffredinol o ran digollediad am ddibrisiant o dan Ran 1 o'r Ddeddf), yn is-adran (2), ar ôl "payable under sections 28" mewnosoder " , 28B".
- (9) Yn adran 60 o'r Ddeddf honno (eithriadau ar gyfer adeiladau eglwysig ac eglwysi wedi eu cau), yn is-adran (2), ar ôl "sections 3," mewnosoder "3A,".
- (10) Yn adran 61 o'r Ddeddf honno (eithriadau ar gyfer henebion hynafol etc), yn is-adran (2), yn lle "sections 3," rhodder "sections 2B, 3, 3A,".
- (11) Yn adran 62 o'r Ddeddf honno (dilysrwydd gorchmynion a phenderfyniadau penodol), yn is-adran (2), cyn paragraff (a) mewnosoder—  
" (za) any decision on a review under section 2D;".
- (12) Yn adran 82 o'r Ddeddf honno (cymhwyso'r Ddeddf i dir a gwaith awdurdodau cynllunio lleol)—  
(a) yn is-adran (1), ar ôl "sections 2" mewnosoder "to 2D," , a  
(b) yn is-adran (3)—  
(i) ar ôl "sections 1(3), (5) and (6)," mewnosoder "2B, 2C," ,  
(ii) ar ôl "28," mewnosoder "28B," , a  
(iii) ar ôl "Schedules 1" mewnosoder " , 1A".
- (13) Yn adran 88 o'r Ddeddf honno (hawliau mynediad), yn is-adran (4), ar ôl "section 28" mewnosoder " , 28B".
- (14) Yn adran 91 o'r Ddeddf honno (dehongli), yn is-adran (1)—  
(a) yn y diffiniad o "building preservation notice", yn lle "section 3(1)" rhodder "sections 3(1) and 3A(1)", a  
(b) mewnosoder yn y lle priodol—  
" "interim protection" has the meaning given in section 2B(3);".
- (15) Yn Atodlen 4 i'r Ddeddf honno (darpariaethau pellach o ran arfer swyddogaethau gan awdurdodau gwahanol), ym mharagraff 7, yn is-baragraff (1), ar ôl "sections 3," mewnosoder "3A,".
- (16) Yn Atodlen 6 i [Ddeddf Llywodraeth Leol \(Cymru\) 1994 \(p.19\)](#) (mân ddiwygiadau a diwygiadau canlyniadol: cynllunio), ym mharagraff 25, yn is-baragraff (1), hepgorer paragraff (b).

## 27 Dyroddi tystysgrif na fwriedir rhestru adeilad

- (1) Yn adran 6 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) (dyroddi tystysgrif na fwriedir rhestru adeilad)—  
(a) hepgorer is-adran (1),  
(b) yn is-adran (2), hepgorer "or (1)", ac  
(c) yn is-adran (3), hepgorer "or (1)".
- (2) Ym mhennawd yr adran honno, ar ôl "listed" mewnosoder " : England".
- (3) Ar ôl yr adran honno mewnosoder—

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*Statws* This is the original version (as it was originally enacted).

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**“6A Issue of certificate that building not intended to be listed: Wales**

- (1) The Welsh Ministers may, on the application of any person, issue a certificate stating that the Welsh Ministers do not intend to list a building situated in Wales.
- (2) The issue of a certificate under subsection (1) in respect of a building—
  - (a) precludes the Welsh Ministers for a period of 5 years from the date of issue from exercising in relation to that building any of the powers conferred on them by section 1 or 2A; and
  - (b) precludes the local planning authority for that period from serving a building preservation notice in relation to it.
- (3) Notice of an application under subsection (1) must be given to the local planning authority within whose area the building is situated at the same time as the application is submitted to the Welsh Ministers.”
- (4) Ym mharagraff 9 o Atodlen 17 i [Ddeddf Menter a Diwygio Rheoleiddio 2013 \(p.24\)](#) (rheoleiddio cynllunio treftadaeth), hepgorer is-baragraff (3).

*Cytundebau sy'n ymwneud ag adeiladau rhestredig*

**28 Cytundebau partneriaeth dreftadaeth**

- (1) Ar ôl adran 26K o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) mewnosoder—

*“Buildings in Wales: heritage partnership agreements*

**26L Heritage partnership agreements**

- (1) A relevant local planning authority may make an agreement under this section with any owner of a listed building, or part of such a building, situated in Wales.
- (2) Any of the following may also be a party to an agreement made by a relevant local planning authority under this section (in addition to the owner and the authority)—
  - (a) any other relevant local planning authority;
  - (b) the Welsh Ministers;
  - (c) any occupier of the listed building;
  - (d) any person who has an interest in the listed building;
  - (e) any person involved in the management of the listed building;
  - (f) any other person who appears to the relevant planning authority appropriate as having special knowledge of, or interest in, the listed 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 such a building, situated in Wales.



- (4) Any of the following may also be a party to an agreement made by the Welsh Ministers under this section (in addition to the owner and the Welsh Ministers)
- (a) any relevant local planning authority;
  - (b) any occupier of the listed building;
  - (c) any person who has an interest in the listed building;
  - (d) any person involved in the management of the listed building;
  - (e) any other person who appears to the Welsh Ministers appropriate as having special knowledge of, or interest in, the listed building, or in buildings of architectural or historic interest more generally.
- (5) An agreement under this section is referred to in this section and in section 26M as a “heritage partnership agreement”.
- (6) A heritage partnership agreement may contain provision—
- (a) granting listed building consent under section 8(1) in respect of specified works for the alteration or extension of the listed building to which the agreement relates; and
  - (b) specifying any conditions to which the consent is subject.
- (7) The conditions to which listed building consent may be subject under subsection (6)(b) in respect of specified works are those that could be attached to listed building consent in respect of the works if consent were to be granted under section 16.
- (8) A heritage partnership agreement may also—
- (a) specify or describe works that would or would not, in the view of the parties to the agreement, 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 listed building;
  - (c) make provision about the carrying out of specified works, or the doing of any specified thing, in relation to the listed building;
  - (d) provide for public access to the listed building and the provision to the public of associated facilities, information or services;
  - (e) restrict access to, or use of, the listed building;
  - (f) prohibit the doing of any specified thing in relation to the listed building;
  - (g) provide for a relevant local 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) In this section “specified” means specified or described in the heritage partnership agreement.
- (10) In this section and in section 26M—
- “owner”, in relation to a listed building or part of such a building, means a person who is for the time being—

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*Statws This is the original version (as it was originally enacted).*

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- (a) the estate owner in respect of the fee simple in the building or part; or
- (b) entitled to a tenancy of the building or part granted or extended for a term of years certain of which not less than 7 years remain unexpired;

“relevant local planning authority”, in relation to a listed building, means a local planning authority in whose area the building or any part of the building is situated.

### **26M Heritage partnership agreements: supplemental**

- (1) A heritage partnership agreement—
  - (a) must be in writing;
  - (b) must make provision for the parties to review its terms at intervals specified in the agreement;
  - (c) must make provision for its termination and variation; and
  - (d) may contain incidental and consequential provision.
- (2) A heritage partnership agreement may relate to more than one listed building or part of such a building, provided that the following are parties to the agreement in each case—
  - (a) a relevant local planning authority or the Welsh Ministers; and
  - (b) an owner of the building or part.
- (3) The Welsh Ministers must by regulations make provision—
  - (a) about the consultation that must take place before a heritage partnership agreement is made or varied;
  - (b) about the publicity that must be given to a heritage partnership agreement before or after it is made or varied;
  - (c) specifying terms that must be included in a heritage partnership agreement;
  - (d) enabling the Welsh Ministers to terminate by order a heritage partnership agreement or any provision of such an agreement; and
  - (e) enabling any local planning authority who is a party to the heritage partnership agreement to terminate the agreement, or any provision of the agreement, by order.
- (4) Regulations under subsection (3)(d) or (e) may specify the provision that may be included in orders made by virtue of those paragraphs, including provision enabling such orders to contain supplementary, incidental, transitory, transitional or saving provision.
- (5) The Welsh Ministers may by regulations make provision—
  - (a) disapplying, or applying or reproducing with or without modifications, any provision of sections 10 to 13, 15 to 26, 28, and 38 to 46 for the purposes of heritage partnership agreements;
  - (b) providing for any of the following, as they apply for the purposes of provisions mentioned in paragraph (a), to apply with any modifications consequential on provision made under that paragraph—
    - (i) sections 30 to 37;

- (ii) sections 62 and 63;
  - (iii) Parts 3 and 4;
  - (iv) Schedule 3.
- (6) A heritage partnership agreement cannot impose any obligation or liability, or confer any right, on a person who is not a party to the agreement (and, accordingly, listed building consent granted by such an agreement enures only for the benefit of the parties to the agreement).”
- (2) Yn adran 91 (dehongli), yn is-adran (2), yn y geiriau cloi, ar ôl “but this subsection does not affect the meaning of owner in section 11” mewnosoder “, 26L or 26M”.

*Adeiladau rhestredig: gorfodi*

## 29 Hysbysiadau stop dros dro

- (1) Ar ôl adran 44A o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) mewnosoder—

### “44B Temporary stop notices

- (1) This section applies where it appears to a local planning authority in Wales that—
- (a) works have been or are being executed to a listed building in their area; and
  - (b) the works are such as to involve a contravention of section 9(1) or (2).
- (2) The authority may issue a temporary stop notice if, having regard to the effect of the works on the character of the building as one of special architectural or historic interest, they consider it is expedient that the works are stopped immediately (or that part of them is).
- (3) A temporary stop notice must be in writing and must—
- (a) specify the works in question;
  - (b) prohibit execution of the works (or so much of them as is specified in the notice);
  - (c) set out the authority’s reasons for issuing the notice; and
  - (d) include a statement of the effect of section 44C.
- (4) A temporary stop notice may be served on a person who appears to the authority—
- (a) to be executing the works or causing them to be executed; or
  - (b) to have an interest in the building.
- (5) The authority must display a copy of the notice on the building; and the copy must specify the date on which it is first displayed.
- (6) A temporary stop notice takes effect when the copy of it is first displayed in accordance with subsection (5).
- (7) A temporary notice ceases to have effect—
- (a) at the end of the period of 28 days beginning with the day on which the copy of it is first displayed in accordance with subsection (5); or

- (b) if the notice specifies a shorter period beginning with that day, at the end of that period.
- (8) But if the authority withdraws the notice before the time when it would otherwise cease to have effect under subsection (7), the notice ceases to have effect on its withdrawal.
- (9) A local planning authority may not issue a subsequent temporary stop notice in relation to the same works unless the authority have, since issuing the previous notice, taken other enforcement action in relation to the contravention referred to in subsection (1)(b).
- (10) The reference in subsection (9) to taking other enforcement action includes a reference to obtaining an injunction under section 44A.
- (11) A temporary stop notice does not prohibit the execution of works of such description, or the execution of works in such circumstances, as the Welsh Ministers may by regulations prescribe.

#### **44C Temporary stop notices: offence**

- (1) A person is guilty of an offence if the person contravenes, or causes or permits a contravention of, a temporary stop notice—
  - (a) which has been served on the person; or
  - (b) a copy of which has been displayed in accordance with section 44B(5).
- (2) An offence under this section may be charged by reference to a day or to some longer period; accordingly, a person may, in relation to the same temporary stop notice, be convicted of more than one offence under this section 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 show 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 against a person for an offence under this section, it is also a defence for the person to show—
  - (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
  - (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;
  - (c) that the works carried out were limited to the minimum measures immediately necessary; and
  - (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority 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 a fine to be imposed on a person convicted 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.

#### **44D Temporary stop notices: compensation**

- (1) A person who, on the day when a temporary stop notice is first displayed in accordance with section 44B(5), has an interest in the building is, on making a claim to the local planning authority within the prescribed time and in the prescribed manner, entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.
- (2) But subsection (1) applies only if—
  - (a) the works specified in the notice are not such as to involve a contravention of section 9(1) or (2); or
  - (b) the authority withdraws the notice other than following the grant of listed building consent, after the day mentioned in subsection (1), which authorises the works.
- (3) The loss or damage in respect of which compensation is payable under this section includes a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the notice.
- (4) No compensation is payable under this section in the case of loss or damage suffered by a claimant if—
  - (a) the claimant was required to provide information under a relevant provision; and
  - (b) the loss or damage could have been avoided if the claimant had provided the information or had otherwise co-operated with the planning authority when responding to the notice.
- (5) In subsection (4)(a), each of the following is a relevant provision—
  - (a) section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
  - (b) section 330 of the principal Act.”
- (2) Yn adran 31 o'r Ddeddf honno (darpariaethau cyffredinol o ran digollediad am ddibrisiant o dan Ran 1 o'r Ddeddf), yn is-adran (2), yn lle “and 29” rhodder “, 29 and 44D”.
- (3) Yn adran 82A(2) o'r Ddeddf honno (cymhwysio i'r Goron: eithriadau), ar ôl paragraff (f) mewnosoder—

“(fa) section 44C;”.
- (4) Yn adran 88 o'r Ddeddf honno (hawliau mynediad), ar ôl is-adran (3) mewnosoder—

“(3A) Any person duly authorised in writing by a local planning authority in Wales may at any reasonable time enter any land for any of the following purposes—

  - (a) securing the display of a temporary stop notice (see section 44B);
  - (b) ascertaining whether a temporary stop notice is being complied with;
  - (c) considering any claim for compensation under section 44D.”
- (5) Yn is-adran (4) o'r adran honno (mynediad gan y Swyddfa Brisio etc mewn cysylltiad â hawliadau digollediad), yn lle “or 29” rhodder “, 29 or 44D”.

- (6) Yn adran 88B o'r Ddeddf honno (hawliau mynediad: darpariaethau atodol), ar ôl is-adran (1) mewnosoder—

“(1A) Subsection (1) does not apply to a person authorised under section 88(3A) who intends to enter the land for either of the purposes mentioned in paragraphs (a) and (b) of that subsection.”

- (7) Yn Atodlen 2 i'r Ddeddf honno (darfodiad hysbysiadau diogelu adeiladau)—

(a) ym mharagraff 2, yn lle “or 43” rhodder “, 43 or 44C”, a

(b) ar ôl paragraff 4 mewnosoder—

“5 Any temporary stop notice served by the local planning authority with respect to the building while the building preservation notice was in force ceases to have effect.”

- (8) Yn Atodlen 4 i'r Ddeddf honno (darpariaethau pellach o ran arfer swyddogaethau gan awdurdodau gwahanol), ym mharagraff 7, yn is-baragraff (1), ar ôl “42,” mewnosoder “44D,”.

*Atal adeiladau rhestredig rhag dirywio neu rhag cael eu difrodi*

### 30 Gwaith brys: estyn y cwmpas ac adennill costau

- (1) Yn adran 54 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) (gwaith brys i ddiogelu adeiladau rhestredig), yn is-adran (4), ar ôl “If” mewnosoder “, in the case of a building in England,”.

- (2) Ar ôl yr is-adran honno mewnosoder—

“(4A) If, in the case of a building in Wales, the whole or part of the building is in residential use, works may be carried out only where they would not interfere unreasonably with that use.”

- (3) Ar ôl is-adran (5) mewnosoder—

“(5A) Where the works are to be executed to a building in Wales the whole or part of which is in residential use, the occupier of the building must also be given not less than seven days’ notice in writing of the intention to carry out the works.”

- (4) Yn is-adran (6), ar ôl “subsection (5)” mewnosoder “or (5A)”.

- (5) Ym mhennawd yr adran honno, hepgorer “unoccupied”; ac ym mhennawd adran 76 o'r Ddeddf honno (sy'n galluogi Gweinidogion Cymru i gyfarwyddo bod adran 54 o'r Ddeddf honno i fod yn gymwys i adeiladau mewn ardaloedd cadwraeth), hepgorer “unoccupied”.

- (6) Yn adran 55 o'r Ddeddf honno (adennill treuliau), ar ôl is-adran (5) mewnosoder—

“(5A) Where the Welsh Ministers make a determination under subsection (4), the owner of the building or (if it is given notice under subsection (5)) the local authority may, within 28 days of the service of the notice under subsection (5), appeal to the county court against the decision.

(5B) In the case of a building in Wales, as from the time when the notice under subsection (2) becomes operative, the expenses which an authority may recover under this section carry interest at such rate as the Welsh Ministers

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*Statws* This is the original version (as it was originally enacted).

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may prescribe by order until recovery of all sums due under this section; and the expenses and any interest are recoverable by the authority as a debt.

- (5C) As from that time, the expenses and any interest are, until recovery, a charge on the land on which the building stands.
- (5D) The charge takes effect at that time as a legal charge which is a local land charge.
- (5E) For the purpose of enforcing the charge, the authority have the same powers and remedies under the Law of Property Act 1925 and otherwise as if they were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.
- (5F) The power of appointing a receiver is exercisable at any time after the end of the period of one month beginning with the date on which the charge takes effect.
- (5G) For the purposes of subsections (5B) to (5F), the notice becomes operative—
- (a) where no representations are made under subsection (4) within the period referred to in that subsection, at the end of that period;
  - (b) where representations are made as mentioned in paragraph (a) but no appeal against the determination under subsection (4) is made under subsection (5A) within the period referred to in that subsection, at the end of that period;
  - (c) where an appeal is made as mentioned in paragraph (b) and the decision on the appeal confirms the determination under subsection (4) (with or without variation), at the time of the decision;
  - (d) where an appeal is made as mentioned in paragraph (b) but is withdrawn, at the time of the withdrawal.”

### 31 Diogelu adeiladau rhestredig mewn cyflwr gwael

- (1) Ar ôl adran 56 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) mewnosoder—

*“Further provision about preservation*

#### **56A Preservation of listed buildings in disrepair**

- (1) The Welsh Ministers may by regulations make provision about further steps that may be taken by local authorities or the Welsh Ministers to secure the proper preservation of listed buildings in Wales which have fallen into disrepair, and about connected matters.
- (2) Regulations under this section may, among other things, make provision for—
- (a) the service of a notice (a “preservation notice”) on the owner of a listed building in Wales which has fallen into disrepair, specifying—
    - (i) the works which the owner must execute to secure the proper preservation of the building; and
    - (ii) the time by which such works must be executed;
  - (b) appeals against preservation notices;

- (c) offences for failure to comply with preservation notices;
  - (d) appeals in respect of such offences.
- (3) Regulations under this section may disapply, or apply or reproduce with or without modifications, any provision of this Act.
- (4) Regulations under this section may amend this Act.”
- (2) Yn adran 82A o'r Ddeddf honno (cymhwyso i'r Goron), yn is-adran (2), ar ôl paragraff (h) mewnosoder—
- “(ha) section 56A;”.
- (3) Yn adran 88 o'r Ddeddf honno (hawliau mynediad), yn is-adran (2)—
- (a) ym mharagraff (a), ar ôl “55,” mewnosoder “56A,” a
  - (b) ym mharagraff (c), ar ôl “section 9, 11, 26J or 43” mewnosoder “or under regulations made under section 56A”.
- (4) Yn Atodlen 7 i [Ddeddf Gorfodi Rheoleiddiol a Sancsiynau 2008 \(p.13\)](#) (pŵer o dan ddeddfiadau penodedig i gynnwys pŵer i wneud darpariaeth ar gyfer sancsiynau sifil), yn y lle priodol mewnosoder—
- “[Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c.9\)](#), section 56A”.

*Amrywiol***32 Cyflwyno dogfennau drwy gyfathrebiadau electronig**

Yn adran 89 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) (cymhwyso darpariaethau cyffredinol penodol y brif Ddeddf), yn is-adran (1A), ar y dechrau mewnosoder “In the case of a building situated in England,”.

**33 Penderfynu ar apelau gan berson a benodir: darpariaeth atodol**

- (1) Yn Atodlen 3 i [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) (penderfynu ar apelau penodol gan berson a benodir gan Weinidogion Cymru), ym mharagraff 7, yn is-baragraff (2)—
- (a) yn y geiriau agoriadol, hepgorer “or the Welsh Office”; a
  - (b) hepgorer paragraff (b) a'r “and” sydd o'i flaen.
- (2) Yn y paragraff hwnnw o'r Atodlen honno, ar ôl is-baragraff (2) mewnosoder—
- “(3) Where an appointed person is a member of the staff of the Welsh Government, the functions of determining an appeal and doing anything in connection with it conferred on the person by this Schedule are to be treated for the purposes of the Public Services Ombudsman (Wales) Act 2005 as functions of the Welsh Government.”



## RHAN 4

### AMRYWIOL

#### *Enwau lleoedd hanesyddol*

#### **34 Rhestr o enwau lleoedd hanesyddol**

Rhaid i Weinidogion Cymru lunio a chynnal rhestr o enwau lleoedd hanesyddol yng Nghymru.

#### *Cofnodion amgylchedd hanesyddol*

#### **35 Cofnodion amgylchedd hanesyddol**

(1) Rhaid i Weinidogion Cymru lunio cofnod amgylchedd hanesyddol ar gyfer pob ardal awdurdod lleol yng Nghymru a'i gadw'n gyfredol.

(2) Mae cofnod amgylchedd hanesyddol yn gofnod sy'n darparu—

- (a) manylion pob adeilad yn ardal yr awdurdod sydd wedi ei gynnwys mewn rhestr a lunnir neu a gymeradwyir o dan adran 1 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#),
- (b) manylion pob ardal cadwraeth yn ardal yr awdurdod sydd wedi ei dynodi o dan adran 69 o'r Ddeddf honno,
- (c) manylion pob heneb yn ardal yr awdurdod sydd wedi ei chynnwys yn y Gofrestr a lunnir ac a gynhelir o dan adran 1 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#),
- (d) manylion pob un o'r tiroedd yn ardal yr awdurdod sydd wedi eu cynnwys yn y gofrestr o barciau a gerddi hanesyddol a lunnir ac a gynhelir o dan adran 41A o'r Ddeddf honno,
- (e) manylion pob safle gwrthdaro yn ardal yr awdurdod sydd o ddiddordeb hanesyddol ym marn Gweinidogion Cymru,
- (f) pan fo awdurdod cyhoeddus (pa un ai ar ei ben ei hun neu ar y cyd â phersonau eraill) yn cynnal rhestr o dirweddau hanesyddol yng Nghymru, fanylion pob tirwedd hanesyddol yn ardal yr awdurdod lleol sydd wedi ei chynnwys yn y rhestr,
- (g) manylion pob safle treftadaeth y byd yn ardal yr awdurdod,
- (h) manylion pob ardal neu safle arall neu fan arall yn ardal yr awdurdod sydd o ddiddordeb hanesyddol, archaeolegol neu bensaernïol lleol ym marn yr awdurdod neu Weinidogion Cymru,
- (i) gwybodaeth am y ffordd y mae datblygiad hanesyddol, archaeolegol neu bensaernïol ardal yr awdurdod, neu unrhyw ran ohoni, wedi cyfrannu at gymeriad presennol yr ardal neu'r rhan a sut y gellir diogelu'r cymeriad hwnnw,
- (j) manylion ymchwiliadau perthnasol a gynhelir yn ardal yr awdurdod a manylion canfyddiadau'r ymchwiliadau hynny, a
- (k) dull o gael mynediad i fanylion pob enw lle hanesyddol yn ardal yr awdurdod sydd wedi ei gynnwys yn y rhestr a lunnir ac a gynhelir o dan adran 34.

(3) Yn is-adran (2)(e), ystyr “safle gwrthdaro” yw—

- (a) maes brwydr neu safle lle y digwyddodd rhyw wrthdaro arall a oedd yn cynnwys lluoedd arfog, neu
  - (b) safle lle y digwyddodd gweithgareddau sylweddol a oedd yn ymwneud â brwydr neu unrhyw wrthdaro arall a grybwyllir ym mharagraff (a).
- (4) Yn is-adran (2)(f), ystyr “awdurdod cyhoeddus” yw person y mae rhai o’i swyddogaethau yn swyddogaethau o natur gyhoeddus.
- (5) Yn is-adran (2)(g), ystyr “safle treftadaeth y byd” yw safle neu fan arall neu beth arall sy’n dreftadaeth ddiwylliannol neu’n dreftadaeth naturiol o fewn yr ystyr a roddir i “cultural heritage” a “natural heritage” yng Nghonfensiwn Treftadaeth y Byd ac sydd wedi ei gynnwys yn Rhestr Treftadaeth y Byd a grybwyllir yn Erthygl 11 o’r Confensiwn hwnnw.
- (6) Yn is-adran (5), ystyr “Confensiwn Treftadaeth y Byd” yw’r Confensiwn ynghylch Diogelu Treftadaeth Ddiwylliannol a Naturiol y Byd a fabwysiadwyd gan Gynhadledd Gyffredinol Sefydliad Addysg, Gwyddoniaeth a Diwylliant y Cenhedloedd Unedig ym Mharis ar 16 Tachwedd 1972.
- (7) Yn is-adran (2)(h), mae’r cyfeiriad at ardal awdurdod lleol yn cynnwys, yn achos awdurdod y mae ei ardal yn cynnwys rhan o lan y môr, gyfeiriad at unrhyw ran o’r môr tiriogaethol sy’n gorwedd tua’r môr o’r rhan honno o’r lan ac sy’n rhan o Gymru (o fewn yr ystyr a roddir i “Wales” gan [Ddeddf Llywodraeth Cymru 2006 \(p.32\)](#)).
- (8) Yn is-adran (2)(j), ystyr “ymchwiliad perthnasol”, mewn perthynas ag ardal awdurdod lleol, yw—
- (a) ymchwiliad gan yr awdurdod neu Weinidogion Cymru at ddiben cael gwybodaeth o ddi-ddordeb hanesyddol, archaeolegol neu bensaernïol sy’n ymwneud â’r ardal, a
  - (b) unrhyw ymchwiliad arall at y diben hwnnw y mae Gweinidogion Cymru yn ystyried ei bod yn briodol ei gynnwys yn y cofnod.
- (9) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio’r adran hon er mwyn amrywio ystyr “cofnod amgylchedd hanesyddol”.
- (10) Cyn gwneud rheoliadau o dan is-adran (9), rhaid i Weinidogion Cymru ymgynghori—
- (a) â phob awdurdod lleol yng Nghymru, a
  - (b) ag unrhyw bersonau eraill sy’n briodol ym marn Gweinidogion Cymru.
- (11) At ddibenion yr adran hon, mae ardal neu safle neu fan arall neu beth arall i’w ystyried fel pe bai mewn ardal awdurdod lleol os yw unrhyw ran o’r ardal, y safle, y man arall neu’r peth arall yn yr ardal.
- (12) Yn yr adran hon ac yn adran 37, ystyr “awdurdod lleol” yw cyngor sir neu gyngor bwrdeistref sirol.

### 36 Mynediad i gofnodion amgylchedd hanesyddol

- (1) Rhaid i Weinidogion Cymru—
- (a) rhoi pob cofnod amgylchedd hanesyddol ar gael er mwyn i’r cyhoedd edrych arno mewn unrhyw fodd sy’n briodol yn eu barn hwy;
  - (b) pan fo person yn gofyn am gopi o ran o gofnod amgylchedd hanesyddol neu fanylion y ceir mynediad iddynt drwy gofnod o’r fath, ac y mae’n ymddangos

- i Weinidogion Cymru fod y cais yn rhesymol, ddarparu copi o'r rhan honno o'r cofnod neu'r manylion hynny i'r person;
- (c) rhoi ar gael i berson sy'n dymuno edrych ar gofnod amgylchedd hanesyddol gyngor ar adalw a deall yr wybodaeth sydd wedi ei darparu yn y cofnod neu y ceir mynediad iddi drwy'r cofnod neu gynhorthwy i wneud hynny;
  - (d) pan fo person yn gofyn i wybodaeth sydd wedi ei darparu mewn cofnod amgylchedd hanesyddol neu y ceir mynediad iddi drwy gofnod o'r fath gael ei hadalw ac y mae'n ymddangos i Weinidogion Cymru fod y cais yn rhesymol, lunio dogfen sy'n cynnwys yr wybodaeth i'r person.
- (2) Wrth asesu at ddibenion is-adran (1)(b) neu (d) a yw cais yn rhesymol, mae'r materion y caiff Gweinidogion Cymru eu hystyried yn cynnwys unrhyw geisiadau blaenorol o'r fath a wnaed gan y person o dan sylw neu ar ei ran.
- (3) Caiff Gweinidogion Cymru godi ffi am—
- (a) darparu copi neu fanylion o dan is-adran (1)(b);
  - (b) darparu cyngor neu gynhorthwy o dan is-adran (1)(c);
  - (c) llunio dogfen o dan is-adran (1)(d).
- (4) Rhaid i ffi a godir o dan is-adran (3) gael ei chyfrifo drwy gyfeirio at y gost o ddarparu'r gwasanaeth y mae'r ffi yn ymwneud ag ef.

### **37 Canllawiau**

- (1) Rhaid i Weinidogion Cymru ddyroddi canllawiau i'r cyrff a restrir yn is-adran (2) ar—
- (a) y modd y caiff y cyrff gyfrannu at lunio cofnodion amgylchedd hanesyddol a chynorthwyo i'w cadw'n gyfredol, a
  - (b) y defnydd o gofnodion amgylchedd hanesyddol wrth arfer swyddogaethau'r cyrff.
- (2) Y cyrff yw—
- (a) awdurdodau lleol yng Nghymru;
  - (b) awdurdodau Parciau Cenedlaethol yng Nghymru;
  - (c) Cyfoeth Naturiol Cymru.
- (3) Rhaid i'r cyrff a restrir yn is-adran (2) roi sylw i ganllawiau a ddyroddir o dan yr adran hon.
- (4) Cyn dyroddi canllawiau o dan yr adran hon, rhaid i Weinidogion Cymru ymgynghori—
- (a) â'r cyrff a restrir yn is-adran (2), a
  - (b) ag unrhyw bersonau eraill sy'n briodol ym marn Gweinidogion Cymru.
- (5) Rhaid i Weinidogion Cymru osod gerbron Cynulliad Cenedlaethol Cymru unrhyw ganllawiau a ddyroddir o dan yr adran hon.

#### *Y Panel Cyngori ar Amgylchedd Hanesyddol Cymru*

### **38 Sefydlu Panel a rhaglen waith**

- (1) Rhaid i Weinidogion Cymru sefydlu panel o bersonau, a elwir y Panel Cyngori ar Amgylchedd Hanesyddol Cymru ("y Panel").

- (2) Diben y Panel yw rhoi cyngor i Weinidogion Cymru ar faterion sy'n ymwneud â llunio, datblygu a gweithredu polisi a strategaeth mewn perthynas â'r amgylchedd hanesyddol yng Nghymru; ac at y diben hwn mae i "Cymru" yr un ystyr â "Wales" yn [Neddf Llywodraeth Cymru 2006 \(p.32\)](#) (gweler adran 158(1) o'r Ddeddf honno).
- (3) Rhaid i'r Panel, cyn pob blwyddyn ariannol berthnasol, gyhoeddi dogfen (y "rhaglen waith") sy'n nodi'r materion y mae'n bwriadu rhoi cyngor i Weinidogion Cymru arnynt yn ystod cyfnod o dair blynedd, sef y flwyddyn ariannol honno a'r ddwy flwyddyn ariannol ddilynol.
- (4) Ystyr "blwyddyn ariannol" yw'r cyfnod o 12 mis sy'n dod i ben â 31 Mawrth; ac ystyr "blwyddyn ariannol berthnasol" yw—
  - (a) y flwyddyn ariannol gyntaf i ddechrau ar ôl cychwyn is-adran (3), a
  - (b) pob trydedd flwyddyn ariannol ar ôl hynny.
- (5) Rhaid i'r Panel gadw'r rhaglen waith o dan adolygiad a chaiff ei diwygio yn sgil gwneud hynny; a phan fo'r Panel yn diwygio'r rhaglen waith, rhaid iddo ei chyhoeddi fel y'i diwygiwyd.
- (6) Cyn cyhoeddi'r rhaglen waith o dan is-adran (3) neu (5), rhaid i'r Panel gyflwyno drafft ohoni i Weinidogion Cymru; ond nid yw'r gofyniad i gyflwyno drafft sydd wedi ei ddiwygio o dan is-adran (5) ond yn gymwys i'r graddau y mae'r Panel yn ystyried bod y diwygiadau yn sylweddol.
- (7) Caiff Gweinidogion Cymru, ar ôl cael drafft o dan is-adran (6), gymeradwyo'r drafft gydag addasiadau neu hebbynt.
- (8) Rhaid i'r Panel, ar ddiwedd pob blwyddyn ariannol, gyhoeddi dogfen sy'n nodi'r materion yn y rhaglen waith y mae wedi rhoi cyngor i Weinidogion Cymru arnynt yn ystod y flwyddyn ariannol honno.

### 39 Cyfansoddiad etc

- (1) Mae aelodau'r Panel Cyngori ar Amgylchedd Hanesyddol Cymru i'w penodi ar unrhyw delerau ac amodau y mae Gweinidogion Cymru yn penderfynu arnynt.
- (2) Ni chaniateir i aelodaeth y Panel fod yn fwy na 15 o bersonau.
- (3) Nid yw'r Panel i'w ystyried yn was nac yn asiant i'r Goron nac ychwaith i'w ystyried yn un sy'n mwynhau unrhyw statws, imiwnedd na braint sydd gan y Goron.
- (4) Nid yw swydd wag ymhlith aelodau'r Panel yn effeithio ar ddilysrwydd gweithred ganddo.
- (5) Caiff Gweinidogion Cymru dalu i aelod o'r Panel unrhyw ffioedd, lwfansau neu dreuliau y mae Gweinidogion Cymru yn penderfynu arnynt.
- (6) Caiff Gweinidogion Cymru ddarparu unrhyw staff, llety neu gyfleusterau eraill sy'n angenrheidiol ym marn Gweinidogion Cymru er mwyn galluogi'r Panel i gyflawni ei swyddogaethau.
- (7) Mae person wedi ei anghymhwyso rhag bod yn aelod o'r Panel os yw'r person—
  - (a) yn aelod o Gynulliad Cenedlaethol Cymru,
  - (b) yn aelod o Dŷ'r Cyffredin neu Dŷ'r Arglwyddi,
  - (c) yn aelod o Senedd yr Alban,

- (d) yn aelod o Gynulliad Gogledd Iwerddon,
  - (e) yn aelod o Senedd Ewrop,
  - (f) yn aelod o gyngor sir neu gyngor bwrdeistref sirol yng Nghymru,
  - (g) yn aelod o awdurdod Parc Cenedlaethol yng Nghymru, neu
  - (h) yn aelod o staff sefydliad a bennir mewn rheoliadau a wneir gan Weinidogion Cymru.
- (8) Yn unol â hynny, ni chaniateir i berson sydd wedi ei anghymhwysu gael ei benodi'n aelod o'r Panel; ac mae person a benodir felly ac sy'n cael ei anghymhwysu yn peidio â bod yn aelod.
- (9) Caiff Gweinidogion Cymru ddiswyddo aelod o'r Panel os ydynt wedi eu bodloni—
- (a) bod yr aelod yn anaddas i barhau fel aelod,
  - (b) nad yw'r aelod yn gallu neu'n fodlon gweithredu fel aelod, neu
  - (c) bod yr aelod wedi dwyn anfri ar y Panel.
- (10) Caiff aelod o'r Panel ymddiswyddo drwy roi dim llai na thri mis o rybudd ysgrifenedig i Weinidogion Cymru.

## RHAN 5

### CYFFREDINOL

#### 40 Rheoliadau a gorchmynion

- (1) Yn adran 60 o [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979](#) ([p.46](#)) (rheoliadau a gorchmynion: darpariaethau cyffredinol), ar ôl is-adran (1) mewnosoder—

“(1A) Any power of the Welsh Ministers to make regulations or an order under this Act includes power to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Welsh Ministers consider appropriate.”

- (2) Ar ôl is-adran (2) o'r adran honno mewnosoder—

“(3) Any power of the Welsh Ministers to make regulations under this Act or an order under section 3, 37 or 61 is exercisable by statutory instrument.

- (4) A statutory instrument containing—

- (a) regulations under section 1AA or 9ZB; or
- (b) regulations which, by virtue of subsection (1A), amend or repeal any provision of an Act of Parliament or an Act or Measure of the National Assembly for Wales,

may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

- (5) Any other statutory instrument containing regulations or an order made by the Welsh Ministers under this Act, other than regulations under section 19, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

- (3) Yn adran 93 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#) (rheoliadau a gorchmynion: darpariaethau cyffredinol), yn is-adran (1), ar ôl “regulations under this Act” mewnosoder “in relation to England and the Welsh Ministers may make regulations under this Act in relation to Wales”.
- (4) Yn is-adran (3) o’r adran honno—
- ar ôl “regulations made under this Act” mewnosoder “, other than regulations under section 2A, 26M or 56A,” a
  - ar ôl “either House of Parliament” mewnosoder “(in the case of regulations made by the Secretary of State) or the National Assembly for Wales (in the case of regulations made by the Welsh Ministers)”.
- (5) Ar ôl is-adran (3) o’r adran honno mewnosoder—
- “(3A) A statutory instrument containing regulations under section 2A, 26M or 56A may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”
- (6) Yn is-adran (4) o’r adran honno, ar ôl “sections 8(5), 26C,” insert “55(5B),”.
- (7) Yn is-adran (5) o’r adran honno—
- ar ôl “an order under section” mewnosoder “55(5B),” a
  - ar ôl “either House of Parliament” mewnosoder “(in the case of an order made by the Secretary of State) or the National Assembly for Wales (in the case of an order made by the Welsh Ministers)”.
- (8) Yn is-adran (6) o’r adran honno, ar ôl “the Secretary of State” mewnosoder “or (as the case may be) the Welsh Ministers”.
- (9) Yn adran 21 o’r Ddeddf honno (apelau: darpariaeth atodol), hepgorer is-adrannau (10) ac (11).
- (10) Yn Atodlen 3 i’r Ddeddf honno (penderfynu ar apelau penodol gan berson a benodir gan Weinidogion Cymru), ym mharagraff 8, hepgorer is-baragraff (6).
- (11) Rhaid i reoliadau o dan y Ddeddf hon gael eu gwneud drwy offeryn statudol.
- (12) Ni chaniateir i offeryn statudol sy’n cynnwys—
- rheoliadau o dan adran 35(9) (pŵer i amrywio ystyr “cofnod amgylchedd hanesyddol”), neu
  - rheoliadau o dan adran 39(7)(h) (Y Panel Cyngori ar Amgylchedd Hanesyddol Cymru: anghymhwys staff sefydliadau penodedig rhag bod yn aelodau),
- gael ei wneud oni bai bod drafft o’r offeryn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru ac wedi ei gymeradwyo drwy benderfyniad ganddo.

## 41 Dod i rym

- (1) Daw’r darpariaethau a ganlyn o’r Ddeddf hon i rym ar y diwrnod y caiff y Ddeddf hon y Cydsyniad Brenhinol—
- Rhan 1;
  - adran 2;

- (c) adrannau 3, 5 ac 11 ac Atodlen 1, i'r graddau y maent yn rhoi pŵer i wneud rheoliadau o dan [Ddeddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 \(p.46\)](#);
  - (d) adran 23;
  - (e) adrannau 24 ac 28 ac Atodlen 2, i'r graddau y maent yn rhoi pŵer i wneud rheoliadau o dan [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p.9\)](#);
  - (f) y Rhan hon.
- (2) Daw adrannau 6 i 9, 12 i 17, 19 i 22, 27, 29, 30(1) i (5), 32 a 33 i rym ar ddiwedd y cyfnod o 2 fis sy'n dechrau â'r diwrnod y caiff y Ddeddf hon y Cydsyniad Brenhinol.
- (3) Daw darpariaethau eraill y Ddeddf hon i rym, a daw adrannau 3, 5, 11, 24 ac 28 ac Atodlenni 1 a 2 i rym at y dibenion sy'n weddill, ar unrhyw ddiwrnod a bennir gan Weinidogion Cymru drwy orchymyn.
- (4) Caiff gorchymyn o dan is-adran (3)—
- (a) pennu diwrnodau gwahanol at ddibenion gwahanol;
  - (b) gwneud darpariaeth drosiannol, darpariaeth ddarfodol neu ddarpariaeth arbed mewn cysylltiad â dyfodiad darpariaeth yn y Ddeddf hon i rym.
- (5) Rhaid i orchymyn o dan is-adran (3) gael ei wneud drwy offeryn statudol.

## 42 Enw byr

Enw byr y Ddeddf hon yw Deddf yr Amgylchedd Hanesyddol (Cymru) 2016.

## ATODLEN 1

(a gyflwynir gan adran 3)

### ATODLENNI A1 AC A2 I’W MEWNOSOD YN NEDDF HENEBION HYNAFOL AC ARDALOEDD ARCHAEOLEGOL 1979

#### “SCHEDULE A1

(introduced by section 1AC)

#### LAPSE OF INTERIM PROTECTION

- 1 This Schedule applies where interim protection ceases to have effect in relation to a monument as a result of the issue of a notice under section 1AB(4)(b) or (5)(b).
- 2 The fact that the interim protection has ceased to have effect does not affect the liability of any person to be prosecuted and punished for an offence under section 2, 9ZG, 9ZK, 28 or 42 committed with respect to the monument while the interim protection had effect.
- 3 Any proceedings on or arising out of an application for scheduled monument consent with respect to the monument lapse, in so far as they relate to consent required by virtue of the interim protection; and any such consent granted lapses to the same extent.
- 4 (1) Any scheduled monument enforcement notice served by the Welsh Ministers with respect to the monument ceases to have effect, in so far as the notice relates to works affecting anything in respect of which the interim protection had effect.  
(2) Any proceedings on or arising out of such a notice under section 9ZE or 9ZF(4) lapse, in so far as the notice relates to works affecting anything in respect of which the interim protection had effect.  
(3) Notwithstanding sub-paragraph (1), section 9ZF(2) continues to have effect as respects any expenses incurred by a person authorised by the Welsh Ministers as mentioned in section 9ZF(1), and with respect to any sums paid on account of such expenses.
- 5 Any temporary stop notice served by the Welsh Ministers with respect to the monument ceases to have effect, in so far as the notice relates to works affecting anything in respect of which the interim protection had effect.
- 6 Any proceedings on an application made by the Welsh Ministers under section 9ZM with respect to the monument lapse, in so far as they relate to the restraint of any actual or apprehended contravention in relation to anything in respect of which the interim protection had effect.

#### SCHEDULE A2

(introduced by section 1AE)

#### DECISIONS ON REVIEWS BY PERSON APPOINTED BY WELSH MINISTERS

##### **Decisions on reviews by appointed persons**

- 1 (1) The Welsh Ministers may by regulations prescribe the classes of reviews under section 1AE on which a decision is to be made by a person appointed by the Welsh Ministers for the purpose instead of by the Welsh Ministers.  
(2) Decisions on reviews of a prescribed class are to be made accordingly.



- (3) This paragraph does not affect any provision in this Act or any instrument made under it that an application for a review is to be made to the Welsh Ministers.
- (4) A person appointed under this paragraph is referred to in this Schedule as “an appointed person”.

### **Powers and duties of appointed person**

- 2 (1) An appointed person has the same powers and duties in relation to a review under section 1AE as the Welsh Ministers have under—
  - (a) subsections (3)(a) and (b) and (5) of that section; and
  - (b) regulations made by virtue of subsection (7) of that section.
- (2) Where an appointed person makes a decision on a review, the decision is to be treated as that of the Welsh Ministers.
- (3) Except as provided by section 55, the validity of that decision is not to be questioned in any legal proceedings.
- (4) No application may be made to the High Court under section 55 on the ground that a decision on a review ought to have been made by the Welsh Ministers and not by an appointed person unless the person who made the application for the review challenges the appointed person’s power to make the decision before the decision is made.

### **Appointment of another person to make a decision on a review**

- 3 (1) At any time before an appointed person has made a decision on a review under section 1AE the Welsh Ministers may—
  - (a) revoke the person’s appointment; and
  - (b) appoint another person under paragraph 1 to make the decision instead.
- (2) Where such a new appointment is made, the review, and any inquiry or other hearing in connection with the review, must be begun afresh.
- (3) Nothing in sub-paragraph (2) requires any person to be given an opportunity to make fresh representations or to modify or withdraw any representations already made.

### **Public local inquiries, hearings and written representations**

- 4 (1) An appointed person may appoint an assessor to provide advice on—
  - (a) any matters arising at a public local inquiry or hearing held by the appointed person in connection with a review under section 1AE or in consequence of such an inquiry or hearing; or
  - (b) any matters arising in written representations made to the appointed person in connection with such a review or in consequence of such representations.
- (2) Section 250(2) and (3) of the Local Government Act 1972 (local inquiries: evidence) applies to a public local inquiry held by an appointed person.

### Directions

- 5 (1) The Welsh Ministers may direct that anything that would fall to be done by an appointed person in connection with a review under section 1AE, other than the making of a decision on the review under subsection (3)(b) of that section, is to be done instead by the Welsh Ministers.
- (2) A direction given under sub-paragraph (1) may be amended or withdrawn by a further direction.

### Delegation

- 6 (1) An appointed person may delegate to another person anything that would fall to be done by the appointed person in connection with a review under section 1AE, other than—
- (a) the conduct of a public local inquiry or hearing; and
  - (b) the making of a decision on the review under subsection (3)(b) of that section.
- (2) A delegation under sub-paragraph (1) is to be to the extent, and on the terms, that the appointed person determines and may be amended or revoked.

### Supplementary provision

- 7 Where an appointed person is a member of the staff of the Welsh Government, the functions of making a decision on a review and doing anything in connection with it conferred on the person by this Schedule are to be treated for the purposes of the Public Services (Ombudsman) Wales Act 2005 as functions of the Welsh Government.”

ATODLEN 2

(a gyflwynir gan adran 24)

ATODLENNI 1A AC 1B I'W MEWNOSOD YN NEDDF CYNLLUNIO  
(ADEILADAU RHESTREDIG AC ARDALOEDD CADWRAETH) 1990

“SCHEDULE 1A

(introduced by section 2C)

### LAPSE OF INTERIM PROTECTION

- 1 This Schedule applies where interim protection ceases to have effect in relation to a building as a result of the issue of a notice under section 2B(4)(b).
- 2 The fact that the interim protection has ceased to have effect does not affect the liability of any person to be prosecuted and punished for an offence under section 9, 43 or 44C committed with respect to the building while the interim protection had effect.
- 3 Any proceedings on or arising out of an application for listed building consent with respect to the building lapse; and any such consent granted while it had effect lapses.
- 4 (1) Any listed building enforcement notice served by the local planning authority with respect to the building ceases to have effect.
- (2) Any proceedings on such a notice under sections 38 to 40 lapse.

- (3) Notwithstanding sub-paragraph (1), section 42(1) and (2) continue to have effect as respects any expenses incurred by the local planning authority, owner or occupier as mentioned in that section and with respect to any sums paid on account of such expenses.
- 5 Any temporary stop notice served by the local planning authority with respect to the building ceases to have effect.

## SCHEDULE 1B

(introduced by section 2D)

### DECISIONS ON REVIEWS BY PERSON APPOINTED BY WELSH MINISTERS

#### 1 Decisions on reviews by appointed persons

- (1) The Welsh Ministers may by regulations prescribe the classes of reviews under section 2D on which a decision is to be made by a person appointed by the Welsh Ministers for the purpose instead of by the Welsh Ministers.
- (2) Decisions on reviews of a prescribed class are to be made accordingly except in such classes of case as may for the time being be prescribed by the Welsh Ministers.
- (3) This paragraph does not affect any provision in this Act or any instrument made under it that an application for a review is to be made to the Welsh Ministers.
- (4) A person appointed under this paragraph is referred to in this Schedule as “an appointed person”.

#### 2 Powers and duties of appointed person

- (1) An appointed person has the same powers and duties in relation to a review under section 2D as the Welsh Ministers have—
- (a) under subsections (3)(a) and (b) and (5) of that section; and
  - (b) by virtue of section 322C and 323A of the Town and Country Planning Act 1990 (costs and procedural matters: Wales), as applied to this Act by section 89 of this Act.
- (2) Where an appointed person makes a decision on a review under section 2D, the decision is to be treated as that of the Welsh Ministers.
- (3) Except as provided by sections 62 and 63, the validity of the decision is not to be questioned in any legal proceedings.
- (4) No application may be made to the High Court under section 63 on the ground that the decision ought to have been made by the Welsh Ministers and not by an appointed person unless the person who made the application for the review challenges the appointed person’s power to make the decision before the decision is made.
- (5) Where in any enactment (including this Act) there is a reference to the Welsh Ministers in a context relating or capable of relating—
- (a) to a review under section 2D; or
  - (b) to anything done or authorised or required to be done by, to or before the Welsh Ministers in or in connection with any such review,

then, so far as the context permits and subject to sub-paragraph (6), the reference is to be construed, in relation to a review on which a decision has been made or is to be made by an appointed person, as a reference to that person.

(6) Sub-paragraph (5) does not permit references to the Welsh Ministers in section 2D(2)(c), (3)(c) or (6) to be construed as references to an appointed person.

(7) Sub-paragraph (1) does not affect the generality of sub-paragraph (5).

### **3 Appointment of another person to make a decision on a review**

(1) At any time before an appointed person has made a decision on a review under section 2D the Welsh Ministers may—

- (a) revoke the person's appointment; and
- (b) appoint another person under paragraph 1 to make the decision instead.

(2) Where such a new appointment is made, the review, and any inquiry or other hearing in connection with the review, must be begun afresh.

(3) Nothing in sub-paragraph (2) requires any person to be given an opportunity to make fresh representations or to modify or withdraw any representations already made.

### **4 Local inquiries, hearings and written representations**

(1) An appointed person may appoint an assessor to provide advice on—

- (a) any matters arising at a local inquiry or hearing held by the appointed person in connection with a review under section 2D or in consequence of such an inquiry or hearing; or
- (b) any matters arising in written representations made to the appointed person in connection with such a review or in consequence of such representations.

(2) Section 250(2) and (3) of the Local Government Act 1972 (local inquiries: evidence) applies to an inquiry held by an appointed person.

### **5 Directions**

(1) The Welsh Ministers may direct that anything that would fall to be done by an appointed person in connection with a review under section 2D, other than the making of a decision on the review under subsection (3)(b) of that section, is to be done instead by the Welsh Ministers.

(2) A direction given under sub-paragraph (1) may be amended or withdrawn by a further direction.

### **6 Delegation**

(1) An appointed person may delegate to another person anything that would fall to be done by the appointed person in connection with a review under section 2D, other than—

- (a) the conduct of a local inquiry or hearing; and
- (b) the making of a decision on the review under subsection (3)(b) of that section.

(2) A delegation under sub-paragraph (1) is to be to the extent, and on the terms, that the appointed person determines and may be amended or revoked.

*Statws* This is the original version (as it was originally enacted).

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## **7 Supplementary provision**

Where an appointed person is a member of the staff of the Welsh Government, the functions of making a decision on a review under section 2D and doing anything in connection with it conferred on the person by this Schedule are to be treated for the purposes of the Public Services (Ombudsman) Wales Act 2005 as functions of the Welsh Government.”