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HISTORIC ENVIRONMENT (WALES) BILL – ILLUSTRATION OF PROPOSED GOVERNMENT AMENDMENTS

This document has been prepared by the Office of the Legislative Counsel in the Welsh Government. It is intended for illustrative purposes only to assist the reader understand the effect of amendments tabled in the name of Mick Antoniw MS to specific sections and Schedules of the Historic Environment (Wales) Bill.

- When text is proposed to be **omitted** by an amendment, text is ~~struck through and presented in red text~~
- When text is proposed to be **inserted** by an amendment, text is underlined and presented in blue text
- A superscript number, for example ^{1,2,3}, refers to the relevant note in the box that follows an amended section or Schedule.

Date of issue: 25 January 2023

Historic Environment (Wales) Bill

[AS INTRODUCED]

An Act of Senedd Cymru to consolidate certain enactments relating to the conservation of the historic environment of Wales.

Having been passed by Senedd Cymru and having received the assent of Her Majesty, it is enacted as follows:

PART 1

...

PART 2

MONUMENTS OF SPECIAL HISTORIC INTEREST

CHAPTER 1

KEY TERMS

2 Meaning of “monument” and “site of monument”

- (1) In this Act “monument” means –
 - (a) any building, structure or work (whether above or below the surface of the land) and any cave or excavation;
 - (b) the site of the remains of any building, structure or work or of the remains of any cave or excavation;
 - (c) the site of any vehicle, vessel, aircraft or other moveable structure, or part of such an object, which neither constitutes nor forms part of any work which is a monument within paragraph (a);
 - (d) the site of the remains of any object or part of an object mentioned in paragraph (c);
 - (e) the site of any thing, or group of things, that evidences previous human activity (other than a site falling within paragraph (b), (c) or (d)).
- (2) For the purposes of subsection (1) any machinery attached to a monument is to be treated as part of the monument if it could not be detached without being dismantled.
- (3) Subsection (1)(a) does not apply to any religious building for the time being used for religious purposes; but this is subject to any exceptions specified in regulations made by the Welsh Ministers.
- (4) Subsections (1)(c) and (d) do not apply to –
 - (a) the site of any object or its remains unless the position of that object or its remains in that particular site is a matter of public interest;

- (b) the site of any vessel or its remains which is protected by an order under section 1 of the Protection of Wrecks Act 1973 (c. 33) designating an area around the site as a restricted area.
- (5) For the purposes of this Act the site of a monument includes not only the land in ~~or~~ [on or under](#)¹ which it is situated but also any land comprising or adjoining that land which appears to the Welsh Ministers or a local authority, in the exercise in relation to that monument of any of their or its functions under this Part, to be essential for the monument's support and preservation.
- (6) References in this Act to a monument include –
 - (a) the site of the monument in question,
 - (b) a group of monuments, and
 - (c) any part of a monument or group of monuments.
- (7) References in this Act to the site of a monument –
 - (a) are to the monument itself where it consists of a site, and
 - (b) in any other case include the monument itself.
- (8) In this section “remains” includes any trace or sign of the previous existence of the thing in question.

Notes:

- 1 Amendment 1 refers

CHAPTER 2

SCHEDULE OF MONUMENTS OF NATIONAL IMPORTANCE

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CHAPTER 1

CONTROL OF WORKS AFFECTING SCHEDULED MONUMENTS

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17 Procedure for determining applications and effect of grant of consent

- (1) The Welsh Ministers may grant scheduled monument consent in respect of all or any part of the works to which an application relates.
- (2) Before determining whether to grant scheduled monument consent on an application, the Welsh Ministers may [do one or more of the following](#)¹ –
 - (a) cause a local inquiry to be held,
 - (b) give the applicant, and any other person, an opportunity to appear before and be heard by a person appointed by the Welsh Ministers, or
 - (c) give the applicant, and any other person, an opportunity to make written representations to a person appointed by the Welsh Ministers.

- (3) Before determining whether to grant scheduled monument consent on an application, the Welsh Ministers must –
 - (a) in every case, consider any representations made by any person with respect to that application, and
 - (b) if an inquiry or hearing has been held or representations have been made in accordance with subsection (2)(c), consider the report of the person who held the inquiry or hearing or to whom the representations were made.
- (4) 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.
- (5) Scheduled monument consent has effect for the benefit of the monument and of all persons for the time being interested in the monument; but this is subject to the terms of the consent.
- (6) Schedule 6 applies in relation to proceedings held under subsection (2).

Notes:

- 1 Amendment 2 refers

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CHAPTER 4

SCHEDULED MONUMENT PARTNERSHIP AGREEMENTS

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CHAPTER 5

ENFORCEMENT OF CONTROLS RELATING TO SCHEDULED MONUMENTS

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34 Compensation for loss or damage caused by temporary stop notice

- (1) This section applies where –
 - (a) the works specified in a temporary stop notice do not, at the time the notice takes effect, involve a breach of section 11 (requirement for works to be authorised) or of a condition subject to which scheduled monument consent has been granted, or
 - (b) the Welsh Ministers withdraw a temporary stop notice after it has taken effect.
- (2) This section does not apply by virtue of subsection (1)(b) where –
 - (a) scheduled monument consent is granted for the works specified in the temporary stop notice after the notice has taken effect, and
 - (b) the Welsh Ministers withdraw the notice after the grant of that consent.
- (3) Any person who has an interest in the monument or land to which the notice relates ~~on the day~~ at the time¹ the notice takes effect is entitled, on making a claim to the

Welsh Ministers, to be paid compensation by them for any loss or damage suffered by the person that is directly attributable to the effect of the notice.

- (4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.
- (5) No compensation is payable under this section for loss or damage that the claimant could have avoided by –
 - (a) providing information that the claimant was required to provide by an information notice served by the Welsh Ministers under section 197, or
 - (b) co-operating with the Welsh Ministers in any other way when responding to such a notice.
- (6) A claim for compensation under this section must be made in writing within 6 months beginning –
 - (a) in a case falling within subsection (1)(a) but not within subsection (1)(b), with the day the temporary stop notice takes effect;
 - (b) in a case falling within subsection (1)(b), with the day the notice is withdrawn.

Notes:

- 1 Amendment 3 refers

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36 Service and taking effect of enforcement notice

- (1) An enforcement notice must specify –
 - (a) the date on which it is to take effect, and
 - (b) the period within which the works specified in the notice must be stopped or the steps specified in it must be taken.
- (2) The notice takes effect at the beginning of the day specified under subsection (1)(a); but where an appeal is made against the notice under section 39, this is subject to subsection (4) of that section.
- (3) An enforcement notice may specify different periods for stopping different works or taking different steps.
- (4) Where the Welsh Ministers issue an enforcement notice, they must serve a copy of the notice on –
 - (a) every owner and occupier of the monument or land to which the notice relates;
 - (b) if the monument or land is let but the lessee is not the occupier, the lessee, and

- (c) any other person who has an interest in the monument or land which the Welsh Ministers consider to be materially affected by the notice.
- (5) [Each copy of¹](#) The notice must be served –
 - (a) before the end of 28 days after the day the notice is issued, and
 - (b) at least 28 days before the date specified in the notice as the date on which it is to take effect.

Notes:

1 Amendment 4 refers

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39 Appeal against enforcement notice

- (1) A person on whom [a copy of¹](#) an enforcement notice is served, or any other person with an interest in the monument or land to which the notice relates, may appeal to a magistrates' court against the notice.
- (2) An appeal may be made on one or more of the following grounds –
 - (a) that the matters alleged to constitute a breach of section 11 or of a condition of scheduled monument consent have not occurred;
 - (b) that those matters (if they occurred) do not constitute such a breach;
 - (c) that the following conditions are met –
 - (i) works to the monument or land were urgently necessary in the interests of safety or health,
 - (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 enforcement notice was not served on a person as required by section 36;
 - (e) that the period within which the notice requires any works to be stopped or any steps to be taken is unreasonably short.
- (3) An appeal must be made before the date specified in the notice as the date on which it is to take effect.
- (4) Where an appeal is made, the notice has 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 a copy of it was not served on a person who was required by section 36 to be served, if the court is satisfied that the person has not been substantially prejudiced by the failure.

Notes:

1 Amendment 5 refers

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CHAPTER 6

ACQUISITION, GUARDIANSHIP AND PUBLIC ACCESS

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CHAPTER 7

GENERAL

...

PART 3

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

CHAPTER 1

LISTING BUILDINGS OF SPECIAL INTEREST

76 Duty to maintain and publish list of buildings

- (1) The Welsh Ministers must maintain a list of buildings which must include every building in Wales they consider to be of special architectural or historic interest, and must publish the up-to-date list.
- (2) The Welsh Ministers may amend the list by –
 - (a) adding a building,
 - (b) removing a building, or
 - (c) amending the entry for a building.
- (3) In considering whether a building should be included in the list, the Welsh Ministers may take into account not only the building itself but also –
 - (a) any way in which the exterior of the building contributes to the architectural or historic interest of any group of buildings of which it forms part, and
 - (b) the desirability of preserving any artificial feature of the building on the ground of its architectural or historic interest.
- (4) In subsection (3)(b) “artificial feature” means any feature of the building consisting of a structure or artificial object that –
 - (a) is fixed to the building, or
 - (b) forms part of the land and is within the curtilage of the building.
- (5) In this Act “listed building” means a building included in the list maintained under this section, and includes –

- (a) any structure or artificial object ~~fixed to the building~~ that is fixed to the building and ancillary to it¹;
 - (b) any other structure or artificial object that—
 - (i) forms part of the land and has done so since before 1 July 1948, and
 - (ii) was within the curtilage of the building, and ancillary to it,² on the date on which the building was first included in the list, or on 1 January 1969, whichever was later.
- (6) In this Part—
- (a) “listing” a building means amending the list by adding the building;
 - (b) “de-listing” a building means amending the list by removing the building.

Notes:

- 1 Amendment 6 refers
- 2 Amendment 7 refers

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CHAPTER 2

CONTROL OF WORKS AFFECTING LISTED BUILDINGS

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97 Power to grant consent subject to conditions

- (1) Listed building consent may be granted subject to conditions.
- (2) A condition may, for example, require—
 - (a) particular features of the listed building to be preserved, either as part of it or after severance from it;
 - (b) any damage caused to the building by the works to be made good after the works are completed;
 - (c) the building or any part of it to be reconstructed after any works are carried out, using original materials so far as practicable and making any alterations to the interior of the building specified in the conditions.
- (3) Consent may also be granted subject to a condition requiring specified details of the works (whether or not set out in an application for consent) to be approved later.
- (4) A condition imposed under subsection (3) must—
 - (a) in the case of consent granted by a planning authority, require the approval of that authority;
 - (b) in the case of consent granted by the Welsh Ministers, specify whether the approval required is that of the planning authority or the Welsh Ministers.
- (5) Consent for the demolition of a listed building must be granted subject to a condition that the works must not start until—

- (a) notice of the proposal to demolish the building has been given to the Royal Commission on the Ancient and Historical Monuments of Wales, and
- (b) after the giving of that notice, the Royal Commission—
 - (i) has been given reasonable access to the building for at least 1 month for the purpose of recording it, or
 - (ii) has stated in writing that it has completed its recording of the building or does not wish to record it.
- (6) If consent for the demolition of a listed building is granted without the condition required by subsection (5), it is to be treated as having been granted subject to that condition.
- (7) Consent for the demolition of a listed building may also be granted subject to a condition that the works must not start until—
 - (a) a contract for works to redevelop the site has been made, and
 - (b) planning permission has been granted for those redevelopment works.
- (8) [Subsections \(5\) and \(6\) do not prevent the imposition of other conditions for the purpose of enabling a listed building to be recorded.](#)¹
- (8) The Welsh Ministers may by regulations replace the references in subsection (5) to the Royal Commission on the Ancient and Historical Monuments of Wales with references to another body.

Notes:

- 1 Amendment 8 refers

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101 Procedure for making appeal

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

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

Notes:

- 1 Amendment 9 refers

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

- (1) This section applies where –
 - (a) on an application for listed building consent, consent is refused or is granted subject to conditions, or
 - (b) an order under section 107 modifies or revokes listed building consent.
- (2) If an owner of the listed building to which the application or order relates claims –
 - (a) that the first set of conditions is met in relation to the building, and
 - (b) that the first and second sets of conditions are met in relation to any associated land,

the owner may serve a purchase notice on the planning authority in whose area the listed building is situated.

- (3) A purchase notice is a notice requiring the planning authority to purchase the owner's interest in the listed building and associated land.
- (4) The first set of conditions is –
 - (a) that the listed building and associated land in respect of which the notice is served are ~~incapable of reasonably beneficial use~~ unusable¹ in their existing state,
 - (b) in a case where listed building consent has been granted ~~for any works subject to conditions or has been modified by the imposition of conditions, that the building and land cannot be made capable of reasonably beneficial use by carrying out the works~~ subject to conditions or has been modified by the imposition of conditions, that the building and land cannot be made usable by carrying out the works to which the consent relates² in accordance with the conditions, and

- (c) in any case, that the building and land cannot be made ~~capable of reasonably beneficial use~~ usable³ by carrying out any other works for which listed building consent has been granted or for which the planning authority or the Welsh Ministers have undertaken to grant listed building consent.
- (5) The second set of conditions is –
- (a) that the use of the associated land is substantially inseparable from the use of the listed building, and
- (b) that the associated land ought to be treated, together with the building, as a single holding.
- (6) In this section and Schedule 9 –
- “associated land” (“tir cysylltiedig”), in relation to a listed building, means land which –
- (a) includes, adjoins or is adjacent to the building, and
- (b) is owned with the building;
- “usable” (“defnyddiadwy”), in relation to a listed building or associated land, means capable of reasonably beneficial use.⁴
- (6) In determining whether a listed building and associated land are ~~capable of reasonably beneficial use~~ usable⁵ in their existing state, a prospective use of the building or land must be ignored if it would involve –
- (a) carrying out works requiring listed building consent which has not been granted and which neither a planning authority nor the Welsh Ministers have undertaken to grant, or
- (b) carrying out development for which planning permission has not been granted and for which neither a planning authority nor the Welsh Ministers have undertaken to grant permission.
- (7) A listed building is not ~~incapable of reasonably beneficial use~~ unusable⁶ in its existing state if –
- (a) the existing state of the building was caused by a breach of section 88 (requirement for works to be authorised) or of a condition subject to which listed building consent has been granted, and
- (b) the building could be made ~~capable of reasonably beneficial use~~ usable⁷ by taking steps that are or could be required by an enforcement notice under section 123.
- ~~(8) In this section and Schedule 9, “associated land”, in relation to a listed building, means land which –~~
- ~~(a) includes, adjoins or is adjacent to the building, and~~
- ~~(b) is owned with the building.~~⁸

Notes:

- 1 Amendment 10 refers

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|---|---------------------|
| 2 | Amendment 11 refers |
| 3 | Amendment 12 refers |
| 4 | Amendment 13 refers |
| 5 | Amendment 14 refers |
| 6 | Amendment 15 refers |
| 7 | Amendment 16 refers |
| 8 | Amendment 17 refers |

...

111 Further provision about service of purchase notice

- (1) A purchase notice must be served within 12 months beginning with –
 - (a) in the case of a notice relating to a decision to refuse listed building consent or grant it subject to conditions, the day the decision is made, or
 - (b) in the case of a notice relating to an order under section 107 modifying or revoking listed building consent, the day the order takes effect.
- (2) In a case where the Welsh Ministers determine an appeal against a decision of a planning authority to refuse listed building consent or grant it subject to conditions, the reference in subsection (1)(a) to the day the decision is made is to be read as a reference to the day the Welsh Ministers determine the appeal.
- (3) The Welsh Ministers may at any time extend the period for serving a purchase notice in a particular case, if they are satisfied that there are good reasons for doing so.
- (4) The Welsh Ministers may by regulations make provision about how a purchase notice must be served.
- (5) Where a repairs notice has been served on an owner of a listed building under section 138, the owner is not entitled to serve a purchase notice in respect of the building –
 - (a) before the end of 3 months beginning with the day the repairs notice is served, or
 - (b) if during that period the ~~acquiring authority starts the compulsory acquisition of the building~~ compulsory acquisition of the building is started¹ under section 137, unless the compulsory acquisition is discontinued.
- (6) An owner of a listed building who has served a purchase notice may not amend the notice; but that does not prevent the owner serving a further purchase notice relating to the same decision or order.
- (7) If an owner serves a further purchase notice relating to the same decision or order, the earlier notice is to be treated as withdrawn unless the later notice states that the owner does not intend to withdraw it.

- (8) For the purposes of subsection (5) a compulsory acquisition—
- (a) is started ~~when the acquiring authority serves the notice required by section 12 of the Acquisition of Land Act 1981 (c. 67) or paragraph 3(1) of Schedule 1 to that Act;~~
 - ~~(b) is discontinued—~~
 - ~~(i) in the case of an acquisition by the Welsh Ministers, when they decide not to make the compulsory purchase order;~~
 - ~~(ii) in the case of an acquisition by a planning authority, when the order is withdrawn or the Welsh Ministers decide not to confirm it,~~
- and “acquiring authority” has the meaning given by section 137(7).

—

- (i) by a planning authority when it serves the notice required by section 12 of the Acquisition of Land Act 1981 (c. 67);
 - (ii) by the Welsh Ministers when they serve the notice required by paragraph 3(1) of Schedule 1 to that Act;
- (b) a compulsory acquisition is discontinued—
- (i) in the case of an acquisition by a planning authority, when the compulsory purchase order is withdrawn or the Welsh Ministers decide not to confirm it;
 - (ii) in the case of an acquisition by the Welsh Ministers, when they decide not to make the compulsory purchase order².

Notes:

- 1 Amendment 18 refers
- 2 Amendment 19 refers

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CHAPTER 3

LISTED BUILDING PARTNERSHIP AGREEMENTS

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CHAPTER 4

ENFORCEMENT OF CONTROLS RELATING TO LISTED BUILDINGS

Unauthorised works and intentional damage: offences

...

122 Compensation for loss or damage caused by temporary stop notice

- (1) This section applies where—
- (a) the works specified in a temporary stop notice do not, at the time the notice takes effect, involve a breach of section 88 (requirement for works to be

- authorised) or of a condition subject to which listed building consent has been granted, or
- (b) a planning authority withdraws a temporary stop notice after it has taken effect.
- (2) This section does not apply by virtue of subsection (1)(b) where—
- (a) listed building consent is granted for the works specified in the temporary stop notice after the notice has taken effect, and
- (b) the planning authority withdraws the notice after the grant of that consent.
- (3) Any person who has an interest in the listed building to which the notice relates ~~on~~ the day at the time¹ the notice takes effect is entitled, on making a claim to the planning authority, to be paid compensation by the authority for any loss or damage suffered by the person that is directly attributable to the effect of the notice.
- (4) The loss or damage for which compensation is payable includes any amount payable by the claimant in respect of a breach of contract caused by taking action necessary to comply with the notice.
- (5) No compensation is payable under this section for loss or damage that the claimant could have avoided by—
- (a) providing information that the claimant was required to provide by a notice served by the planning authority under section 197 of this Act or section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57), or
- (b) co-operating with the planning authority in any other way when responding to such a notice.
- (6) A claim for compensation under this section must be made in writing within 6 months beginning—
- (a) in a case falling within subsection (1)(a) but not within subsection (1)(b), with the day the temporary stop notice takes effect;
- (b) in a case falling within subsection (1)(b), with the day the notice is withdrawn.

Notes:

1 Amendment 20 refers

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124 Service and taking effect of enforcement notice

- (1) An enforcement notice must specify—
- (a) the date on which it is to take effect, and
- (b) the period within which the steps specified in it must be taken.
- (2) The notice takes effect at the beginning of the day specified under subsection (1)(a); but where an appeal is made against the notice under section 127, this is subject to sections 127(4)(a) and 184(5).

- (3) An enforcement notice may specify different periods for taking different steps.
- (4) Where a planning authority issues an enforcement notice, it must serve a copy of the notice on—
 - (a) every owner and occupier of the listed building to which the notice relates, and
 - (b) any other person who has an interest in the building which the authority considers to be materially affected by the notice.
- (5) [Each copy of¹](#) The notice must be served—
 - (a) before the end of 28 days after the day the notice is issued, and
 - (b) at least 28 days before the date specified in the notice as the date on which it is to take effect.

Notes:

1 Amendment 21 refers

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CHAPTER 5

ACQUISITION AND PRESERVATION OF BUILDINGS OF SPECIAL INTEREST

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147 Steps for preservation of listed buildings in disrepair

- (1) The Welsh Ministers may by regulations make provision for and in connection with conferring powers on local authorities or the Welsh Ministers to take steps to secure the proper preservation of listed buildings which have fallen into disrepair.
- (2) The regulations may, in particular, provide for—
 - (a) notices requiring owners of listed buildings which have fallen into disrepair to carry out works to secure their proper preservation (“preservation notices”);
 - (b) appeals against preservation notices;
 - (c) offences for failure to comply with preservation notices.
- (3) Regulations under this section—
 - (a) may disapply, or apply or reproduce with or without modifications, any provision of this Part or Part 5 or 7;
 - (b) may amend this Part or those Parts.
- (4) [Regulations under this section may not make any provision that binds the Crown.¹](#)

Notes:

1 Amendment 22 refers

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CHAPTER 6

GENERAL

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157 Interpretation of this Part

In this Part –

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

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

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

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

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

- (a) a county council or county borough council in Wales;
- (b) a National Park authority in Wales;
- (c) a community council;
- (d) a police and crime commissioner in Wales;
- (e) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies;
- (f) a body in Wales which is a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988 (c. 41);
- (g) a body in Wales to which section 75 of that Act (special levies) applies;
- (h) a joint board or joint committee ~~of which, if~~¹ all the constituent authorities are local authorities within paragraphs (a) to (g);

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

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

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

Notes:

- 1 Amendment 23 refers

PART 4

CONSERVATION AREAS

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164 Urgent works to preserve buildings in conservation areas

- (1) Subsection (2) applies where the Welsh Ministers consider that the preservation of a building in a conservation area is important for maintaining the character or appearance of that area.
- (2) The Welsh Ministers may direct that section 144 (urgent works) applies to the building as it applies to listed buildings.
- (3) Where a direction has effect in relation to a building –
 - (a) sections 144 to 146 are to be read as if references to a listed building were references to the building.
 - (b) [section 144\(7\) is to be read as if paragraph \(b\) were omitted.](#)¹

Notes:

- 1 Amendment 24 refers. The splitting of subsection (3) to take account of inserted paragraph (b) will be dealt with as a printing change, if the amendment is accepted.

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PART 5

SUPPLEMENTARY PROVISION ABOUT BUILDINGS OF SPECIAL INTEREST AND CONSERVATION AREAS

CHAPTER 1

EXERCISE OF FUNCTIONS BY PLANNING AUTHORITIES AND OTHER LOCAL AUTHORITIES

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CHAPTER 2

PROCEEDINGS BEFORE THE WELSH MINISTERS

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174 Choice of inquiry, hearing or written procedure

- (1) The Welsh Ministers must in each case determine the procedure by which proceedings to which this section applies are to be considered.
- (2) A determination must provide for the proceedings to be considered in one or more of the following ways –

- (a) at a local inquiry;
 - (b) at a hearing;
 - (c) on the basis of representations in writing.
- (3) The Welsh Ministers must make a determination before the end of the period specified in regulations made by the Welsh Ministers.
- (4) A determination may be varied by a further determination at any time before the proceedings to which it relates are determined.
- (5) The Welsh Ministers must notify the following persons of a determination –
- (a) the applicant or appellant (as appropriate), and
 - (b) the planning authority concerned.
- (6) The Welsh Ministers must publish the criteria they will apply in making determinations.
- (7) This section applies to the following proceedings –
- (a) an application referred to the Welsh Ministers under section 94 (reference of application for listed building consent or conservation area consent or for the variation or removal of conditions);
 - (b) an appeal under section 100 (appeal against decision or failure to make decision on application for consent, for the variation or removal of conditions or for approval of details);
 - (c) an application for listed building consent [or conservation area consent](#)¹ made to the Welsh Ministers under section 106 (urgent works on Crown land);
 - (d) an appeal under section 127 (appeal against enforcement notice).
- (8) The Welsh Ministers may by regulations amend subsection (7) to –
- (a) add proceedings under or by virtue of Part 3, Part 4 or this Part,
 - (b) remove proceedings, or
 - (c) modify a description of proceedings.

Notes:

1 Amendment 25 refers.

...

179 Payment of appointed representative where access to evidence restricted

Notes:

Amendment 26 amends the Welsh text of section 179(3). There is no need to amend the English version.

...

CHAPTER 3

VALIDITY AND CORRECTION OF DECISIONS

182 Validity of certain decisions and orders relating to buildings

- (1) The validity of a decision or order to which this section applies may not be questioned in any legal proceedings except an application for statutory review under section 183.
- (2) The decisions to which this section applies are –
 - (a) a decision on a review under section 81 (review of listing decision);
 - (b) a decision on an application referred to the Welsh Ministers under section 94 (reference of application for listed building consent or conservation area consent or for the variation or removal of conditions);
 - (c) a decision on an appeal under section 100 (appeal against decision or failure to make decision on application for consent, for the variation or removal of conditions or for approval of details);
 - (d) a decision on an application for listed building consent or conservation area consent made to the Welsh Ministers under section 106 (urgent works on Crown land);
 - (e) a decision under paragraph 2 of Schedule 9 to confirm or not to confirm a purchase notice, including –
 - (i) a decision to confirm the notice in relation to only part of the land to which it relates, and
 - (ii) a decision to grant listed building consent, ~~or direct that listed building~~ or conservation area consent, or direct that¹ consent must be granted, instead of confirming the notice in relation to the land or any part of it;
 - (f) a decision under section 128(3)(a) or (b) (determination of appeal against enforcement notice) to grant listed building consent or conservation area consent or remove a condition of consent.
- (3) The orders to which this section applies are –
 - (a) an order under section 107 (modification or revocation of consent) made by a planning authority (whether or not it has been confirmed by the Welsh Ministers) or the Welsh Ministers;
 - (b) an order under section 115 (termination of listed building partnership agreement or provision of agreement) made by a planning authority or the Welsh Ministers;
 - (c) an order under section 181 (orders relating to costs of parties) made in connection with a decision mentioned in subsection (2) or an order mentioned in paragraph (a) or (b).

- (4) This section does not prevent any court exercising any jurisdiction in relation to a refusal or failure to make a decision to which this section applies.

Notes:

- 1 Amendment 28 refers.

...

184 Appeal to High Court against decision relating to enforcement notice

- (1) Rules of court must provide ~~that, where the Welsh Ministers make a relevant decision, an interested person may either —~~
- ~~(a) appeal to the High Court against the decision on a point of law, or~~
 - ~~(b) require the Welsh Ministers~~
- either —
- (a) that an interested person may appeal to the High Court on a point of law against a relevant decision made by the Welsh Ministers, or
 - (b) that where the Welsh Ministers make a relevant decision an interested person may require them¹ to state and sign a case for the opinion of the High Court.
- (2) For the purposes of this section —
- (a) a relevant decision is any decision (including a direction or order) made in proceedings on an appeal under section 127 against an enforcement notice, other than a decision under section 128(3)(a) or (b) to grant consent or remove a condition of consent;
 - (b) the following are interested persons —
 - (i) the person who made the appeal,
 - (ii) the planning authority in whose area the building to which the enforcement notice relates is situated, and
 - (iii) any other person who has an interest in the building.
- (3) At any stage of the proceedings on an appeal under section 127, the Welsh Ministers may state a question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.
- (4) A decision of the High Court on a case stated under subsection (3) is to be treated as a judgment of the court for the purposes of section 16 of the Senior Courts Act 1981 (c. 54) (jurisdiction of Court of Appeal to hear and determine appeals from judgments or orders of High Court).
- (5) Where proceedings are brought by virtue of this section, the High Court or the Court of Appeal (as the case may be) may order that the enforcement notice is to have effect, either in full or to the extent specified in the order, pending the final determination of the proceedings and any re-hearing and determination of the appeal by the Welsh Ministers.

- (6) An order under subsection (5) may be made on whatever terms the court considers appropriate, which may include terms requiring the planning authority to give an undertaking as to damages or any other matter.
- (7) Rules of court may make provision –
 - (a) for the Welsh Ministers to be a party to proceedings in the High Court or the Court of Appeal brought by virtue of this section, either generally or in circumstances specified in the rules;
 - (b) about the powers of the High Court or the Court of Appeal to remit the matter to the Welsh Ministers for re-hearing and determination in accordance with the opinion or direction of the court.
- (8) Proceedings in the High Court under this section may only be brought with the permission of the High Court.
- (9) An appeal to the Court of Appeal by virtue of this section may only be brought with the permission of the High Court or the Court of Appeal.

Notes:

- 1 Amendment 28 refers.

...

CHAPTER 4

GENERAL

...

PART 6

OTHER HERITAGE ASSETS AND RECORDS

Historic parks and gardens

192 Duty to maintain and publish register of historic parks and gardens

- (1) The Welsh Ministers must maintain a register of parks and gardens in Wales they consider to be of special historic interest, and must publish the up-to-date register.
- (2) The Welsh Ministers must decide whether, or to what extent, ~~it would be appropriate to~~¹ to include as part of the registration of a park or garden –
 - (a) any building or water on, adjoining or adjacent to it, or
 - (b) any land adjoining or adjacent to it.
- (3) The Welsh Ministers may amend the register by –
 - (a) adding an entry,
 - (b) removing an entry, or
 - (c) amending an entry.
- (4) As soon as possible after amending the register, the Welsh Ministers must –

- (a) serve notice that they have done so on the persons mentioned in subsection (5), and
 - (b) in the case of any amendment under subsection (3)(a) or (c), include with the notice a copy of the entry or amended entry in the register.
- (5) The persons referred to in subsection (4) are—
- (a) every owner and occupier of the park or garden in question (including, if different, the owners and occupiers of anything appearing in the register by virtue of subsection (2));
 - (b) the planning authority in whose area the park or garden is situated [\(including, if different, the planning authority in whose area anything appearing in the register by virtue of subsection \(2\) is situated\)](#)².
- (6) In this section references to parks and gardens include—
- (a) places of recreation, and
 - (b) any other designed grounds (including designed ornamental landscapes).

Notes:

- 1 Amendment 29 refers.
- 2 Amendment 30 refers.

...

PART 7 GENERAL

197 Power to require information by notice

- (1) A relevant authority may serve a notice (an “information notice”) requiring the occupier of any land or a person who receives rent (either directly or indirectly) in respect of any land to confirm in writing—
 - (a) the nature of the person’s interest in the land, and
 - (b) the name and address of any other person known to the person as having an interest in the land.
- (2) But a relevant authority may not serve an information notice unless the information required by the notice is needed by the authority to enable it to—
 - (a) exercise any of the authority’s functions under or by virtue of Part 2, or
 - (b) make an order or issue or serve a notice or other document ~~which, under or by virtue of Part 3, 4 or 5, the authority is authorised to make, issue or serve~~ [under or by virtue of Part 3, 4 or 5](#)¹.
- (3) An information notice may require the information to be given within—
 - (a) 21 days beginning with the day after the day the notice is served, or
 - (b) any longer period specified by the notice or allowed by the relevant authority.

- (4) In this section “relevant authority” means –
- (c) the Welsh Ministers;
 - (d) a local authority (within the meaning given by section 157).

Notes:

- 1 Amendment 31 refers.

...

SCHEDULE 1

(introduced by section 7(4))

END OF INTERIM PROTECTION FOR MONUMENTS

...

Criminal liability

2. The fact that interim protection has ended does not affect the liability of any person to be prosecuted and punished for an offence under ~~section 30, 33, 41, 58 or 60~~ [this Act](#)¹ committed while the interim protection had effect.

...

Notes:

- 1 Amendment 32 refers.

SCHEDULE 2

(introduced by sections 10(5) and 82(6))

DECISION ON REVIEW BY PERSON APPOINTED BY THE WELSH MINISTERS

...

SCHEDULE 3

(introduced by section 12(1))

AUTHORISATION FOR CLASSES OF WORKS

...

SCHEDULE 4

(introduced by section 20(3))

PROCEDURE FOR ORDERS MODIFYING OR REVOKING SCHEDULED MONUMENT CONSENT

...

Making an order under section 20

3. (1) This paragraph applies where a notice under paragraph 1 has been served under Part 1 of this Schedule.
- (2) The Welsh Ministers may not make the order to which the notice relates unless –
 - (a) the period for making objections to the proposal has ended without an objection being made by a person on whom the notice was served,
 - (b) if an objection was made by such a person within that period, all such objections have been withdrawn, or
 - (c) if an objection was made during that period by such a person and the objection has not been withdrawn, the requirements of sub-paragraphs (3) and (4) have been met.
- (3) The requirements of this sub-paragraph are met if the Welsh Ministers –
 - (a) cause a local inquiry to be held, or
 - (b) give the person who made the objection an opportunity to appear before and be heard by a person appointed by them.
- (4) The requirements of this sub-paragraph are met if the Welsh Ministers –
 - (a) consider each objection made as described in sub-paragraph (2)(c) and not withdrawn, and
 - (b) if an inquiry or hearing has been held under sub-paragraph (3), consider the report of the person who held it.
- (5) Where a person takes the opportunity to appear before and be heard by a person appointed by the Welsh Ministers under sub-paragraph (3)(b), the Welsh Ministers must give each of the following persons the opportunity to be heard on the same occasion –
 - (a) every other person on whom the notice under paragraph 1 was served, and
 - (b) any other person the Welsh Ministers consider appropriate.
- (6) Where the Welsh Ministers make an order under section 20 by virtue of sub-paragraph (2)(a) or (b), the order must be made on the terms set out by the notice.
- (7) Where the Welsh Ministers make an order under section 20 by virtue of sub-paragraph (2)(c), the order may be made either on the terms set out in the notice or with ~~any modifications the Welsh Ministers consider appropriate~~ [modifications](#)¹.

...

Notes:

- 1 Amendment 33 refers.

SCHEDULE 5

(introduced by section 27(4))

TERMINATION BY ORDER OF SCHEDULED MONUMENT PARTNERSHIP
AGREEMENT

...

Making an order under section 27

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

- (b) any other person the Welsh Ministers consider appropriate.
- (6) Where the Welsh Ministers make an order under section 27 by virtue of subparagraph (2)(a) or (b), the order must be made on the terms set out by the notice of proposed termination.
- (7) Where the Welsh Ministers make an order under section 27 by virtue of subparagraph (2)(c), the order may be made either on the terms set out by the notice of proposed termination or with ~~any modifications the Welsh Ministers consider appropriate~~ modifications¹.

...

Notes:

- 1 Amendment 34 refers.

SCHEDULE 6

(introduced by sections 10(5), 17(6), 20(3) and 27(4))

PROCEEDINGS UNDER PART 2

...

SCHEDULE 7

(introduced by sections 79(6) and 85(4))

END OF INTERIM PROTECTION OR TEMPORARY LISTING FOR BUILDINGS

...

Criminal liability

2. The fact that the building is no longer treated as if it were a listed building does not affect the liability of any person to be prosecuted and punished for an offence under ~~section 117, 118, 121 or 133~~ this Act¹ committed while the building was treated as a listed building.

...

Notes:

- 1 Amendment 35 refers.

SCHEDULE 8

(introduced by section 107(3))

PROCEDURE FOR ORDERS MODIFYING OR REVOKING LISTED BUILDING CONSENT

...

SCHEDULE 9

(introduced by section 112)

ACTION FOLLOWING SERVICE OF PURCHASE NOTICE

...

Action to be taken by Welsh Ministers on rejection of purchase notice by planning authority

2. (1) This paragraph applies where a copy of a purchase notice is sent to the Welsh Ministers under paragraph 1(6).
- (2) The Welsh Ministers must confirm the purchase notice if they are satisfied –
 - (a) that the sets of conditions in section 109 are met in relation to the land to which the notice relates, and
 - (b) that the land to which the notice relates includes all of the land adjoining or adjacent to the listed building that they consider is required –
 - (i) for preserving the building or its amenities,
 - (ii) for providing or facilitating access to it, or
 - (iii) for its proper control or management,but this is subject to the following provisions.
- (3) If the Welsh Ministers are satisfied that the sets of conditions in section 109 are met only in relation to part of the land, they must confirm the notice only in relation to that part.
- (4) Instead of confirming the purchase notice, the Welsh Ministers may –
 - (a) in the case of a notice served in consequence of a refusal of listed building consent for any works, grant listed building consent for the works;
 - (b) in the case of a notice served in consequence of a grant of listed building consent for any works subject to conditions, vary or remove the conditions so far as they consider necessary to enable the land to which the notice relates to be made ~~capable of reasonably beneficial use~~ [usable](#)¹ by carrying out the works;
 - (c) in the case of a notice served in consequence of an order under section 107 revoking listed building consent, revoke the order;
 - (d) in the case of a notice served in consequence of an order under that section modifying listed building consent for any works by imposing

conditions, vary or remove the conditions so far as they consider necessary to enable the land to which the notice relates to be made ~~capable of reasonably beneficial use~~ [usable](#)² by carrying out the works.

- (5) Sub-paragraph (6) applies if the Welsh Ministers consider that the land to which the notice relates, or any part of it, could be made ~~capable of reasonably beneficial use~~ [usable](#)³ within a reasonable time by carrying out –
- (a) any other works for which listed building consent ought to be granted, or
 - (b) any development for which planning permission ought to be granted.
- (6) Instead of confirming the purchase notice in relation to the land or that part of it, the Welsh Ministers may direct that, if an application is made for listed building consent for those works, or for planning permission for that development, it must be granted.
- (7) In confirming a purchase notice the Welsh Ministers may, if they consider it appropriate having regard to the probable ultimate use of the land to which the notice relates, modify the notice in relation to all or any part of the land by substituting another local authority or statutory undertaker for the planning authority on which the notice was served.
- (8) If the Welsh Ministers are not satisfied as mentioned in sub-paragraph (2) in relation to a purchase notice, they must refuse to confirm the notice.
- (9) In this paragraph references to the land to which a purchase notice relates are to the listed building and associated land (if any) in respect of which the notice is served.

...

Interpretation of Schedule

7. (1) In this Schedule –

“associated land” (“*tir cysylltiedig*”) ~~has the meaning and~~ “usable” (“*defnyddiadwy*”) ~~have the meanings~~⁴ given by section 109(8);

“statutory undertaker” (“*ymgymerwr statudol*”) includes an electronic communications code operator and a former public telecommunications operator.

- (2) In the definition of “statutory undertaker” in sub-paragraph (1) –

“electronic communications code operator” (“*gweithredwr cod cyfathrebu electronig*”) has the meaning given by paragraph 1(1) of Schedule 17 to the Communications Act 2003 (c. 21);

“former public telecommunications operator” (“*cyn-weithredwr telathrebu cyhoeddus*”) has the meaning given to “former PTO” by paragraph 1(1) of Schedule 17 to the Communications Act 2003.

Notes:

- | | |
|---|----------------------|
| 1 | Amendment 36 refers. |
| 2 | Amendment 37 refers. |
| 3 | Amendment 38 refers. |
| 4 | Amendment 39 refers. |

SCHEDULE 10

(introduced by section 115(5))

PROCEDURE FOR ORDERS TERMINATING LISTED BUILDING PARTNERSHIP AGREEMENTS

...

SCHEDULE 11

(introduced by section 161(5))

EFFECT OF SECTION 161 CEASING TO APPLY TO BUILDING

...

Criminal liability

2. (1) The fact that the building ceases to be a building to which section 161 applies does not affect the liability of any person to be prosecuted and punished for an offence ~~mentioned in sub-paragraph (2) committed while section 161 applied to it.~~
- (2) ~~The offences referred to in sub-paragraph (1) are offences committed under—~~
 - ~~(a) section 117 as applied by section 163 (breaching section 161 or failing to comply with condition of consent),~~
 - ~~(b) section 121 as applied by section 163 (breaching temporary stop notice),~~
~~or~~
 - ~~(c) section 133 as applied by section 163 (failing to comply with enforcement notice)~~ under this Act committed while section 161 applied to it¹.

...

Notes:

- | | |
|---|----------------------|
| 1 | Amendment 40 refers. |
|---|----------------------|

SCHEDULE 12

(introduced by section 173(6))

DETERMINATION OF APPEAL BY APPOINTED PERSON OR THE WELSH MINISTERS

...

SCHEDULE 13

(introduced by section 211(1))

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

...

Building Act 1984 (c. 55)

...

65 After section 79 insert—

“79A Wales: exercise of powers under sections 77 and 79 in relation to listed buildings, buildings in conservation areas etc.

- (1) Before taking any steps mentioned in subsection (3) in relation to a listed building, a local authority in Wales must—
 - (a) if it is the planning authority for the area in which the building is situated, consider whether it should instead exercise its powers under sections 137 and 138 of the Historic Environment (Wales) Act 2023 (compulsory acquisition and repairs notices), and
 - (b) in any case, consider whether it should instead exercise its powers under section 144 of that Act (urgent preservation works).
- (2) Before taking any steps mentioned in subsection (3) in relation to—
 - (a) a building in relation to which interim protection or temporary listing has effect under Chapter 1 of Part 3 of the Historic Environment (Wales) Act 2023, or
 - (b) a building ~~to which section 161 of that Act applies~~¹ that is subject to a direction under section 164 of that Act (urgent works to preserve buildings in conservation areas),a local authority in Wales must consider whether it should instead exercise its powers under section 144 of that Act.
- (3) The steps referred to in subsections (1) and (2) are steps with a view to—
 - (a) obtaining an order under section 77(1)(a), or
 - (b) serving a notice under section 79(1).

- (4) In subsection (1), “listed building” and “planning authority” have the same meanings as in the Historic Environment (Wales) Act 2023.”

...

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

166 In section 70 of the Leasehold Reform, Housing and Urban Development Act 1993 –

- (a) in subsection (14), ~~after “section 73” insert “as they apply –~~
- (i) in the words before paragraph (a), for “in section 73” substitute “section 73 as they apply in relation to England,”;
 - (ii) in paragraph (a), after “Town and Country Planning Act 1990” insert “as it applies² in relation to England,”;

(b) after subsection (14) insert –

“(15) In this section and section 73 as they apply in relation to Wales –

(a) “conservation area” has the same meaning as in the Historic Environment (Wales) Act 2023;

(b) “local planning authority” ~~has the same meaning as in the Town and Country Planning Act 1990.”~~ is to be interpreted in accordance with Part 1 of the Town and Country Planning Act 1990,

and in that Part as it applies in relation to Wales references to “the planning Acts” are to be treated as including this Act.³

...

Criminal Justice and Public Order Act 1994 (c. 33)

171 ...

172 In section 60C(8), in paragraph (b) of the definition of “land”, after “the Ancient Monuments and Archaeological Areas Act 1979” insert “or the Historic Environment (Wales) Act 2023”.⁴

...

Notes:

1 Amendment 41 refers.

2 Amendment 42 refers. The splitting of sub-paragraph (a) to take account of inserted (i) and (ii) will be dealt with as a printing change, if the amendment is accepted.

3 Amendment 43 refers.

4 Amendment 44 refers.

SCHEDULE 14

(introduced by section 211(2))

TRANSITIONAL AND SAVING PROVISIONS

...

Interpretation

8 For the purposes of paragraphs 6 and 7, a person is immediately affected by the operation of a guardianship deed relating to a monument if the person is bound by that deed and is in possession or occupation of the monument.

PART 3

MISCELLANEOUS

Offence of breaching temporary stop notice in relation to scheduled monument

9 Section 33(4)(b) does not apply in relation to proceedings for an offence relating to a temporary stop notice that was issued before section 33 comes into force.

Service and taking effect of enforcement notice in relation to scheduled monument

10 Section 36(5)(a) does not apply in relation to the service of an enforcement notice that was issued before section 36 comes into force.

Purchase notice served on council in relation to building in National Park

11 (1) Sub-paragraph (2) applies in relation to a purchase notice that has been served on a county council or county borough council in Wales in relation to a building in a National Park before section 109 comes into force.

(2) The following provisions are to be read as if references to a planning authority were references to the council –

(a) section 183(7)(c);

(b) section 186(3) and (7);

(c) Schedule 9.¹

Notes:

1 Amendment 45 refers.