

Welsh Government Response: *The Historic Environment (Wales) Act 2023 (Consequential Provision) (Secondary Legislation) Regulations 2024*

Technical Scrutiny point _ :

1. The Welsh Government notes the point and will consider whether to make any change when drafting the amending Regulations referred to in point 6.
2. The saving provisions have now ceased to have practical significance in relation to Wales; the amendment makes it clear to a reader that there is no longer anything which applies to Wales in these Regulations.
3. The Welsh Government accepts the point. It is suitable for a correction slip but given the response to point 6 we will seek to include it in an amending instrument before the end of the year.
4. The Welsh Government notes the point. When referring to another provision, it is common to include a brief description of the provision in brackets to help the reader understand the significance of the reference. This is not defective drafting, but rather a drafting choice; the approach taken depends on the context of the provisions and what is considered to be helpful to the reader. The approach accords with paragraphs 5.7 and 7.10 of Writing Laws for Wales.
5. There is no need to amend a heading merely because it is not ideal for the amended text, but it may be helpful to do so if the heading is falsified by a textual amendment to the provision. We don't think this is the case.
6. The Welsh Government accepts the point and will make an amending instrument before the end of the year.
7. The general approach taken is to provide corresponding language definitions after a defined term in unnumbered lists where terms might appear in different orders in each list. This is in order to facilitate comparison of the Welsh and English language terms (paragraph 4.15(7) of Writing Laws for Wales). The two terms appear in paragraph (4) in the same order in both languages. The Welsh Government considers that nothing further is required to assist the reader to compare the terms in paragraph (4).
8. The Welsh Government accepts that it would be preferable to maintain the chronological order of the list. But the Welsh Government also notes that the amendment achieves the intended legal effect. Given the response to point 6, we will address the point in an amending instrument before the end of the year.

9. The Welsh Government notes the point. The Welsh Government agrees that it is clear from the context that the intention is to refer to regulation 4(1) to (7) and regulation 5. Given the response to point 6 we will seek to include an amendment in an amending instrument before the end of the year.
10. The Welsh Government does not accept the point. There is an error in the Westlaw version of regulation 7 of the Listed Buildings (Review of Listing Decisions) (Wales) Regulations 2017 which appears to have combined regulation 7(2)(b) and (c), causing regulation 7(2)(c) to appear as part of regulation 7(2)(b). See legislation.gov.uk for the correct version containing the words “under section 2A of the 1990 Act” at regulation 7(2)(b). The Welsh Government has notified Westlaw.
11. The Welsh Government notes the Committee report and also notes that the amendments achieve the necessary legal effect. In particular, with the second example listed, the drafting is consistent with the provision being amended rather than internally consistent.