

SL(6)534 – The Historic Environment (Wales) Act 2023 (Consequential Provision) (Primary Legislation) Regulations 2024

Background and Purpose

The Historic Environment (Wales) Act 2023 (“the 2023 Act”) consolidates legislation relating to the historic environment in Wales. The 2023 Act forms part of a code of law relating to the historic environment in Wales.

These Regulations amend Schedule 13 and Schedule 14 to the 2023 Act.

Schedule 13 to the 2023 Act makes minor and consequential amendments and repeals.

Regulation 3 inserts in Schedule 13 a consequential change to the Harbours Act 1964.

Regulation 4 omits paragraph 73 of Schedule 13.

Schedule 13 to the 2023 Act also makes changes to the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the 1990 Act”). The 1990 Act has since been amended by the Levelling-Up and Regeneration Act 2023. These Regulations make changes to Schedule 13 to the 2023 Act in light of those amendments.

Schedule 14 to the 2023 Act makes transitional and saving provisions. Regulation 22 inserts a further saving provision in Schedule 14.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following four points are identified for reporting under Standing Order 21.3 in respect of this instrument.

- 1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

The title of these Regulations is the Historic Environment (Wales) Act 2023 (**Consequential Provision**) (Primary Legislation) Regulations 2024 (emphasis added). These Regulations



amend Schedule 13 and Schedule 14 to the 2023 Act. Schedule 13 contains minor and consequential amendments and repeals, Schedule 14 contains transitional and saving provisions. The amendment made to Schedule 14 by these Regulations contains a saving provision. Can the Welsh Government confirm whether it considers 'Consequential Provision' to be the appropriate wording to use in the title of these Regulations, or should it also refer to the saving provision?

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

It is noted that these Regulations amend primary legislation. They are subject to the affirmative procedure, in accordance with section 209(5)(h) of the 2023 Act.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

It is noted that Schedules 13 and 14 to the 2023 Act are not yet in force. In accordance with the Historic Environment (Wales) Act 2023 (Commencement) Order 2024, Schedules 13 and 14 will come into force on 4 November 2024. These Regulations, if approved by the Senedd, come into force on 3 November 2024.

4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

These Regulations were not subject to consultation and a regulatory impact assessment has not been prepared. We note the following paragraphs in the Explanatory Memorandum:

14. No consultation has been undertaken on the regulations, as they reflect current policy and restate current procedures.

15. A Regulatory Impact Assessment has not been prepared for these regulations, as the regulations restate existing regulations. The regulations do not alter the policy (or its impact) in any significant way or how it is applied in a given situation. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.

Welsh Government response

A Welsh Government response is required for the first reporting point.

Legal Advisers

Legislation, Justice and Constitution Committee

8 October 2024



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee