



# Historic Environment (Wales) Act 2023

2023 asc 3

## PART 3

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

## CHAPTER 4

ENFORCEMENT OF CONTROLS RELATING TO LISTED BUILDINGS

PROSPECTIVE

*Enforcement notices issued by planning authorities*

### **123 Power of planning authority to issue enforcement notice**

- (1) A planning authority may issue an enforcement notice if it considers—
  - (a) that works which 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 have been or are being carried out in relation to a listed building in its area, and
  - (b) that it is appropriate to issue the notice, having regard to the effect of the works on the character of the building as a building of special architectural or historic interest.
- (2) An enforcement notice must—
  - (a) specify the alleged breach, and
  - (b) require steps specified in the notice to be taken for one or more of the purposes set out in subsection (3).
- (3) The purposes are—
  - (a) restoring the listed building to its condition before the breach took place,

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Wales) Act 2023. Cross Heading: Enforcement notices issued by planning authorities. (See end of Document for details)*

- (b) if the planning authority considers that restoration would not be reasonably practicable or would be undesirable, carrying out further works to alleviate the effect of the breach, or
  - (c) putting the building in the condition it would have been in if the terms of any listed building consent for the works to which the notice relates (including any conditions attached to the consent) had been complied with.
- (4) Where an enforcement notice imposes a requirement under subsection (3)(b), listed building consent is to be treated as having been granted for any works carried out in compliance with the requirement.

#### Commencement Information

**II** S. 123 not in force at Royal Assent, see [s. 212\(2\)](#)

### 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 of 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.

#### Commencement Information

**II** S. 124 not in force at Royal Assent, see [s. 212\(2\)](#)

### 125 Variation and withdrawal of enforcement notice

- (1) Where a planning authority has issued an enforcement notice, it may—
- (a) withdraw the notice;
  - (b) waive or relax any requirement of the notice, and in particular extend the period within which the notice requires any step to be taken.
- (2) The authority may exercise the powers in subsection (1) whether or not the notice has taken effect.

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- (3) The withdrawal of an enforcement notice does not prevent the planning authority from issuing another enforcement notice.
- (4) Subsection (5) applies where the planning authority had served copies of the enforcement notice under section 124(4) before exercising the powers in subsection (1).
- (5) Immediately after exercising any of those powers, the authority must give notice that it has done so to every person who was served with a copy of the enforcement notice (or who would be served with a copy of the notice if it were reissued).

#### Commencement Information

**I3** S. 125 not in force at Royal Assent, see [s. 212\(2\)](#)

### 126 Effect of granting listed building consent on enforcement notice

- (1) This section applies if, after an enforcement notice has been issued, listed building consent is granted under section 89(2)—
  - (a) authorising any works to which the notice relates that have been carried out in breach of section 88, or
  - (b) authorising works which involve a breach of a condition subject to which a previous consent was granted.
- (2) The notice ceases to have effect (or does not take effect) so far as it—
  - (a) requires steps to be taken that are inconsistent with the authorisation of the works, or
  - (b) requires steps to be taken for complying with the condition.
- (3) The fact that an enforcement notice has wholly or partly ceased to have effect by virtue of this section does not affect the liability of any person for an offence in respect of a previous failure to comply with the notice (see section 133).

#### Commencement Information

**I4** S. 126 not in force at Royal Assent, see [s. 212\(2\)](#)

**Status:**

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**Changes to legislation:**

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