



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

Unauthorised works and intentional damage: offences

117 Offence of carrying out unauthorised works or breaching condition of consent

- (1) A person commits an offence if the person carries out, or causes to be carried out, works in relation to a listed building in breach of section 88 (requirement for works to be authorised).
- (2) A person also commits an offence if the person—
 - (a) carries out, or causes to be carried out, works in relation to a listed building, and
 - (b) fails to comply with a condition subject to which listed building consent has been granted for the works.
- (3) Subsection (2) does not limit what may be an offence under subsection (1).
- (4) In proceedings against a person for an offence under this section, it is a defence for the person to prove that—
 - (a) works were urgently necessary in the interests of safety or health or for the preservation of the building,

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: Unauthorised works and intentional damage: offences. (See end of Document for details)

- (b) it was not practicable to secure safety or health or the preservation of the building by carrying out works of repair or works to provide temporary support or shelter,
 - (c) the works carried out were limited to the minimum measures immediately necessary, and
 - (d) notice in writing justifying in detail the carrying out of the works was given to the planning authority in whose area the building is or was situated as soon as reasonably practicable.
- (5) In proceedings against a person for an offence under this section in relation to a building on which interim protection is conferred—
- (a) it is a defence for the person to prove that the person 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 78(1), it is for the prosecution to prove that the notice was served on the person.
- (6) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine or imprisonment for a term not exceeding the applicable limit under section 224(1A)(b) of the Sentencing Code, or both;
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.
- (7) In determining the amount of any fine to be imposed on a person convicted of an offence 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.

Commencement Information

II S. 117 not in force at Royal Assent, see [s. 212\(2\)](#)

118 Offence of intentionally damaging listed building

- (1) A person commits an offence if, with the intention of causing damage to a listed building, the person does anything or permits anything to be done—
- (a) which causes or is likely to result in damage to the building, and
 - (b) which the person would be entitled to do or permit were it not for this subsection.
- (2) Subsection (1) does not apply to—
- (a) works for which listed building consent has been granted;
 - (b) anything done in relation to a scheduled monument (but see section 58);
 - (c) works in relation to an exempt religious building;
 - (d) anything authorised by planning permission granted or treated as having been granted on an application under the [Town and Country Planning Act 1990 \(c. 8\)](#);
 - (e) anything for which development consent has been granted under the [Planning Act 2008 \(c. 29\)](#).

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- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If a person convicted of an offence under subsection (1) fails to take any reasonable steps that are necessary to prevent damage or further damage resulting from the offence, the person is guilty of a further offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding one tenth of level 3 on the standard scale for each day on which the failure continues.

Commencement Information

I2 S. 118 not in force at Royal Assent, see [s. 212\(2\)](#)

Status:

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Changes to legislation:

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