



Historic Environment (Wales) Act 2023

2023 asc 3

PART 3

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

CHAPTER 5

ACQUISITION AND PRESERVATION OF BUILDINGS OF SPECIAL INTEREST

PROSPECTIVE

Compulsory acquisition of listed buildings in need of repair

137 Powers to acquire listed building compulsorily for purpose of preservation

- (1) This section applies if the Welsh Ministers—
 - (a) consider that reasonable steps are not being taken for properly preserving a listed building, and
 - (b) are satisfied that there is a compelling case in the public interest for the building to be acquired compulsorily for the purpose of preserving it.
- (2) The Welsh Ministers—
 - (a) may authorise the planning authority in whose area the listed building is situated to acquire compulsorily the building and any land in respect of which the conditions in subsection (3) are met, or
 - (b) may themselves acquire the building and land compulsorily.
- (3) The conditions are that—
 - (a) the land includes, adjoins or is adjacent to the building, and
 - (b) the Welsh Ministers consider that the land is required—
 - (i) for preserving the building or its amenities,

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- (ii) for providing or facilitating access to it, or
 - (iii) for its proper control or management.
- (4) This section does not permit the acquisition of—
- (a) a building which is a scheduled monument (but see section 43), or
 - (b) an exempt religious building.
- (5) This section does not permit the acquisition of an interest in Crown land unless—
- (a) the interest is held otherwise than by or on behalf of the Crown, and
 - (b) the appropriate Crown authority agrees to the acquisition.
- (6) The [Acquisition of Land Act 1981 \(c. 67\)](#) applies to an acquisition under this section.
- (7) In this Chapter “acquiring authority” means—
- (a) in the case of an acquisition or proposed acquisition under subsection (2)(a), the planning authority that acquires or proposes to acquire the listed building or land;
 - (b) in the case of an acquisition or proposed acquisition under subsection (2)(b), the Welsh Ministers.

Commencement Information

- II** S. 137 not in force at Royal Assent, see [s. 212\(2\)](#)

138 Requirement to serve repairs notice before starting compulsory acquisition

- (1) An acquiring authority may not start the compulsory acquisition of a listed building under section 137 unless—
- (a) the authority has served a repairs notice on every owner of the building,
 - (b) the 2 months beginning with the day the repairs notice was served have ended, and
 - (c) the repairs notice has not been withdrawn.
- (2) A repairs notice is a notice—
- (a) specifying the works the authority considers reasonably necessary for the proper preservation of the listed building, and
 - (b) explaining the effect of sections 137 to 141 of this Act and section 49 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#) (assumption about listed building consent when assessing compensation for compulsory acquisition).
- (3) If—
- (a) a listed building is demolished after a repairs notice has been served in respect of it, but
 - (b) the Welsh Ministers are satisfied that they would have confirmed or made a compulsory purchase order in respect of the building had it not been demolished,
- the demolition of the building does not prevent the compulsory acquisition of the site of the building under section 137.

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- (4) An acquiring authority may at any time withdraw a repairs notice it has served on any person; and if it does do so, it must immediately give the person notice of the withdrawal.
- (5) For the purposes of subsection (1) an acquiring authority starts a compulsory acquisition when it 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.

Commencement Information

I2 S. 138 not in force at Royal Assent, see [s. 212\(2\)](#)

139 Application to stop compulsory acquisition

- (1) This section applies where a compulsory purchase order for the acquisition of a listed building under section 137 is made by a planning authority or prepared in draft by the Welsh Ministers.
- (2) Any person who has an interest in the listed building may apply to a magistrates' court for an order that no further steps may be taken in relation to the compulsory purchase order.
- (3) The application must be made within 28 days after the day 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 is served.
- (4) If the magistrates' court is satisfied that reasonable steps have been taken for properly preserving the listed building, it must make the order applied for.
- (5) Any person aggrieved by the decision of the magistrates' court on the application may appeal against the decision to the Crown Court.

Commencement Information

I3 S. 139 not in force at Royal Assent, see [s. 212\(2\)](#)

140 Direction for minimum compensation where building deliberately allowed to fall into disrepair

- (1) A compulsory purchase order for the acquisition of a listed building under section 137 may include a direction for minimum compensation if the acquiring authority is satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development of the site or any adjoining site.
- (2) A direction for minimum compensation is a direction that, in assessing compensation for the compulsory acquisition of the listed building, it is to be assumed—
 - (a) that planning permission would not be granted for any development of the site of the building, and
 - (b) that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than works necessary for restoring it to and maintaining it in a proper state of repair.

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- (3) Where a direction for minimum compensation is included in an order made by a planning authority or prepared in draft by the Welsh Ministers, the statement of the effect of the order in 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 must—
 - (a) include a statement that the direction has been included, and
 - (b) explain the effect of the direction.
- (4) If the Welsh Ministers confirm or make a compulsory purchase order which includes a direction for minimum compensation, the compensation for the compulsory acquisition is to be assessed in accordance with the direction, despite anything to the contrary in—
 - (a) the [Land Compensation Act 1961 \(c. 33\)](#),
 - (b) the [Town and Country Planning Act 1990 \(c. 8\)](#),
 - (c) section 49 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#), or
 - (d) this Act.

Commencement Information

I4 S. 140 not in force at Royal Assent, see [s. 212\(2\)](#)

141 Application for removal of direction for minimum compensation

- (1) This section applies where a direction for minimum compensation is included in a compulsory purchase order for the acquisition of a listed building under section 137 that is made by a planning authority or prepared in draft by the Welsh Ministers.
- (2) Any person who has an interest in the listed building may apply to a magistrates' court for an order that no direction for minimum compensation is to be included in the compulsory purchase order as confirmed or made by the Welsh Ministers.
- (3) The application must be made within 28 days after the day 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 is served.
- (4) If the magistrates' court is satisfied that the listed building has not been deliberately allowed to fall into disrepair for the purpose mentioned in section 140(1), it must make the order applied for.
- (5) Any person aggrieved by the decision of the magistrates' court on the application may appeal against the decision to the Crown Court.
- (6) The rights conferred by this section are in addition to, and do not limit, the rights conferred by section 139.

Commencement Information

I5 S. 141 not in force at Royal Assent, see [s. 212\(2\)](#)

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142 Ending of rights over land acquired compulsorily

- (1) On the completion of a compulsory acquisition of land under section 137—
 - (a) all private rights of way over the land are extinguished,
 - (b) all rights to install, keep or maintain apparatus on, under or over the land are extinguished, and
 - (c) the acquiring authority becomes entitled to any apparatus on, under or over the land.
- (2) Subsection (1) does not apply to—
 - (a) any right to which a statutory undertaker is entitled, or apparatus belonging to a statutory undertaker, for the purpose of carrying on its undertaking,
 - (b) any right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network, or any electronic communications apparatus installed for the purposes of such a network, or
 - (c) any right or apparatus specified by the acquiring authority in a direction given before the completion of the acquisition.
- (3) Subsection (1) is also subject to any agreement (whether made before or after the completion of the acquisition) between the acquiring authority and the person who is entitled to the right or to whom the apparatus belongs.
- (4) Any person who suffers loss by the extinguishment of a right or the transfer of apparatus under this section is entitled to be paid compensation by the acquiring authority.
- (5) Compensation under this section is to be determined in accordance with the [Land Compensation Act 1961 \(c. 33\)](#).
- (6) In subsection (2)(b)—

“electronic communications code” (“*cod cyfathrebu electronig*”) means the code set out in Schedule 3A to the [Communications Act 2003 \(c. 21\)](#);

“operator” (“*gweithredwr*”), “electronic communications code network” (“*rhwydwaith cod cyfathrebu electronig*”) and “electronic communications apparatus” (“*cyfarpar cyfathrebu electronig*”) have the meanings given by paragraph 1(1) of Schedule 17 to the Communications Act 2003.

Commencement Information

16 S. 142 not in force at Royal Assent, see [s. 212\(2\)](#)

Status:

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