

HISTORIC ENVIRONMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Ancient Monuments Etc

Section 19 – Land believed to contain an ancient monument: power of entry

121. **Section 19** inserts new section 26(4) into the 1979 Act to relax the requirement upon a person authorised by the Welsh Ministers to obtain consent before exercising the power of entry to carry out excavations.
122. Section 26(1) of the 1979 Act provides the Welsh Ministers with a power to authorise entry to any land where they know or have reason to believe there is an ancient monument (which may be, but need not be, a scheduled monument) for the purpose of inspecting the land to record matters of archaeological or historical interest. Section 26(2) allows a person exercising the power of entry to carry out excavations in the land for the purposes of archaeological investigation. But the power to carry out excavations is limited in section 26(3) by the requirement for the consent of the owner prior to any excavation.
123. New section 26(4) restricts the application of section 26(3) and enables a person authorised by the Welsh Ministers to enter land to undertake archaeological excavations without the consent of the landowner if an ancient monument is known, or believed, to be at risk of imminent damage or destruction. Such circumstances could arise as a result of unauthorised works or natural damage, for instance, damage caused by coastal erosion that leaves archaeological remains exposed or vulnerable.