

HISTORIC ENVIRONMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Ancient Monuments Etc

Section 5 – Simplification of process

38. **Section 5(1)** inserts new subsections (5A) and (5B) into section 2 of the 1979 Act (control of works affecting scheduled monuments) and section 5(2) inserts paragraph 1(3) into Part 1 of Schedule 1 to that Act (applications for scheduled monument consent). The new provisions enable regulations to be made to simplify the process by which scheduled monument consent is applied for and granted.
39. Section 2 of the 1979 Act states that scheduled monument consent is required for:
- any works resulting in damage to or demolition of a scheduled monument,
 - any works to remove or repair such a monument or part of it or any alterations or additions to it, and
 - any flooding or tipping operations on land in, on or under which there is a scheduled monument.
40. New section 2(5A) and (5B) allows the Welsh Ministers to make regulations on the form and content of scheduled monument consent and removes the requirement that consent must be granted in writing.
41. Regulations made under paragraph 1(1) of Part 1 of Schedule 1 to the 1979 Act set out the form and manner in which applications for scheduled monument consent are to be made.
42. New paragraph 1(3) of Part 1 of Schedule 1 enables regulations to be made by the Welsh Ministers to allow applications for scheduled monument consent to be made in other ways. Those regulations may give the Welsh Ministers discretion to decide on the application procedure that may be appropriate.
43. A significant proportion of scheduled monument consent applications involve straightforward proposals, for example the like-for-like replacement of a stile, or the simple repair of erosion scars. These regulation-making powers will enable the Welsh Ministers to introduce simplified scheduled monument consent procedures for straightforward proposals for unobtrusive minor works. For instance, elements of the process, such as the submission of a written application or the applicant's acceptance of an interim decision, could be omitted in cases where both the Welsh Ministers and the applicant are content to employ a simplified procedure.