

# HISTORIC ENVIRONMENT (WALES) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Listed Buildings**

##### *Section 25 – Amendments relating to the temporary listing of buildings*

155. [Section 25](#) inserts new section 3A into the 1990 Act to provide temporary protection for unlisted buildings in a manner which takes account of the new provision for interim protection that this Act inserts into the 1990 Act.
156. Subsection (1) limits the application of section 3 of the 1990 Act (temporary listing: building preservation notices) to England only.
157. Subsection (3) inserts new section 3A into the 1990 Act. This new section applies to buildings in Wales.
158. Section 3A(1) states that if a local planning authority believes that a building that may merit listing because of its special architectural or historic interest is in imminent danger of destruction or alteration that threatens its character as a building of interest, it may serve a building preservation notice. Section 3A(3) specifies that a building preservation notice takes effect as soon as it is served on the owner and occupier and remains in force for up to six months, subject to section 3A(4).
159. Section 3A(4) provides that a building preservation notice will cease to have effect if the Welsh Ministers serve a consultation notice under section 2A(2) that triggers interim protection or if they notify the local planning authority in writing that they do not intend to consult under new section 2A on a proposal to include the building in a list.
160. Section 3A(5) specifies that while the building preservation notice is in force, the provisions of the 1990 Act, with the exception of sections 47 to 51 and section 59 (compulsory acquisition of listed buildings in need of repair and certain acts causing or likely to result in damage to listed buildings), apply.
161. Section 3A(6) applies in situations where interim protection supersedes a building preservation notice. Anything done under section 3A(5) while the building preservation notice was in force — for instance, a grant of listed building consent or the service of a listed building temporary stop notice — is to be treated as done under interim protection by virtue of new section 2B(2).
162. Section 3A(7) and(8) requires the local planning authority to notify the owner and occupier of the building immediately if the Welsh Ministers advise the authority that they do not intend to consult under new section 2A on a proposal to include the building in a list. If such a notification is given, the local planning authority may not serve another building preservation notice on the building for a period of 12 months.
163. [Section 25\(4\)](#) modifies the manner in which compensation for interim protection is calculated in instances where a building preservation notice was in force immediately before interim protection began. It adds subsections (4) and (5) to new section 28B of

*These notes refer to the Historic Environment (Wales) Act  
2016 (c.4) which received Royal Assent on 21 March 2016*

the 1990 Act (compensation for loss or damage caused by interim protection) which provide that, for the purposes of compensation, interim protection is to be treated as beginning at the time that the building preservation notice came into force.

164. **Section 25(5)** inserts new subsection (1A) into section 29 of the 1990 Act (compensation for loss or damage caused by service of building preservation notice). It specifies that anyone who had an interest in a building at the time that a building preservation notice was served is entitled to compensation from the local planning authority for any loss or damage directly attributable to the effect of the notice if the building preservation notice ceases by virtue of its expiration at the end of six months (section 3A(3)(b)) or the Welsh Ministers' notification to the local planning authority that they do not intend to consult under new section 2A on a proposal to include the building in a list (section 3A(4)(b)).