
WELSH STATUTORY INSTRUMENTS

2018 No. 1087 (W. 227)

TOWN AND COUNTRY PLANNING, WALES

**The Ecclesiastical Exemption (Listed Buildings
and Conservation Areas) (Wales) Order 2018**

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| <i>Made</i> | - - - - | <i>15 October 2018</i> |
| <i>Laid before the National Assembly for Wales</i> | - - | <i>16 October 2018</i> |
| <i>Coming into force</i> | - - | <i>1 January 2019</i> |

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 60, 75 and 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990(1), and now exercisable by them(2), make the following Order.

Title, commencement, application and supplementary provision

1.—(1) The title of this Order is the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (Wales) Order 2018 and it comes into force on 1 January 2019.

(2) This Order applies to ecclesiastical buildings in Wales which are for the time being used for ecclesiastical purposes.

(3) Nothing in this Order requires listed building consent or conservation area consent for works commenced, or for works in respect of which a contract has been made, before this Order comes into force.

Interpretation

2. In this Order—

“the 1990 Act” (“*Deddf 1990*”) means the Planning (Listed Buildings and Conservation Areas) Act 1990;

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- (1) 1990 c. 9. Section 60(2) was amended by section 26(9) of the Historic Environment (Wales) Act 2016 (anaw 4) (“the 2016 Act”). There are other amendments to sections 60 and amendments to section 75 which are not relevant to this instrument. Section 93(5) was amended by section 40(7) of the 2016 Act; section 93(6) was amended by section 40(8) of the 2016 Act. There are other amendments to section 93 which are not relevant to this instrument.
- (2) The functions of the Secretary of State under sections 60, 75 and 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990 were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), so far as exercisable in relation to Wales. The functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), the functions being relevant Assembly functions as defined in paragraph 30(2).

“listed buildings ecclesiastical exemption” (“*esemptiad eglwysig adeiladau rhestredig*”) means the exemption from the provisions of sections 3A, 4, 7 to 9, 47, 54 and 59 of the 1990 Act(3) provided for in section 60(1) to (3) of the 1990 Act(4); and

“the Methodist Church” (“*yr Eglwys Fethodistaidd*”) means the Methodist Church as defined in section 2(1) of the Methodist Church Act 1976(5).

Exclusion of listed buildings ecclesiastical exemption

3. Listed buildings ecclesiastical exemption is excluded in respect of all ecclesiastical buildings other than those cases falling within article 4.

Buildings retaining listed buildings ecclesiastical exemption

4.—(1) In this article “church building” (“*adeilad eglwys*”) means a building whose primary use is as a place of worship, and for the purposes of this definition—

- (a) any object or structure fixed to that building; and
- (b) any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land,

is treated as part of the church building.

(2) Listed buildings ecclesiastical exemption is retained for the following buildings to the extent set out in paragraph (3)—

- (a) church buildings of the Church in Wales vested in the Representative Body of the Church in Wales(6) or any other representative body incorporated under section 13(2) of the Welsh Church Act 1914(7);
- (b) church buildings within the faculty jurisdiction of the Church of England;
- (c) church buildings held in trust by the diocesan trustees of a diocese of the Roman Catholic Church;
- (d) church buildings owned by or held in trust for or for the purposes of the Methodist Church or any connexional or local organisation of the Methodist Church;
- (e) church buildings held in trust for a Church in membership with the Baptist Union of Great Britain or the Baptist Union of Wales by either—
 - (i) the Baptist Union Corporation Limited (whether alone or jointly with another person or persons); or
 - (ii) the Welsh Baptist Union Corporation Limited (whether alone or jointly with another person or persons).

(3) Listed building ecclesiastical exemption is restricted in respect of church buildings falling within sub-paragraphs (a) and (c) to (e) of paragraph (2) to works carried out—

- (a) by or on behalf of a church or body, or a constituent part of a church or body, referred to in those sub-paragraphs; or
- (b) by or on behalf of the governing body or the trustees of that institution where the church buildings in question are on any premises forming part of a university, college, school, hospital or public or charitable institution.

(3) Section 3A was inserted by section 25(3) of the 2016 Act. Section 4(2) was amended by section 26(5) of the 2016 Act. There are amendments to sections 7 to 9, 47, 54 and 59 which are not relevant to this instrument.

(4) There are amendments to section 60(3) which are not relevant to this instrument.

(5) 1976 c. xxx.

(6) See the Church of Wales Representative Body Charter of Incorporation Order in Council 1919 (S.I. 1919/564).

(7) 1914 c. 91.

Exclusion of conservation area consent exemption

5. The exemption from the provisions of section 74 of the 1990 Act⁽⁸⁾ provided for in section 75(1)(b) of the 1990 Act is excluded in the case of all ecclesiastical buildings including—

- (a) any object or structure fixed to that building; and
- (b) any object or structure within the curtilage of a building which, although not fixed to that building, forms part of the land.

Transitional provisions: objects and structures within curtilage

6. Article 4 does not apply where an application for listed building consent in relation to any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land is made before this Order comes into force.

7. Revocation of the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994

8. The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994⁽⁹⁾ is revoked.

Dafydd Elis Thomas
Minister for Culture, Tourism and Sport, under
the authority of the Cabinet Secretary for
Economy and Transport, one of the Welsh
Ministers

15 October 2018

⁽⁸⁾ Section 74(1) was amended by the Enterprise and Regulatory Reform Act 2013 (c. 24) (“the 2013 Act”), section 63 and Schedule 17, paragraph 12(2). Section 74(3) was amended by the Town and Country Planning (Determination of Procedure) (Wales) Order 2014 (S.I. 2014/2773 (W. 280)), article 3 and the Schedule, paragraph 20, and the 2013 Act, section 63 and Schedule 17, paragraph 12(4). There are other amendments to section 74 which are not relevant to this instrument.

⁽⁹⁾ S.I. 1994/1771.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 for Wales.

Section 60(1) and (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the 1990 Act”) provides that ecclesiastical buildings which are for the time being used for ecclesiastical purposes are not subject to sections 3A, 4, 7 to 9, 47, 54 and 59 of the 1990 Act. This is defined in article 2 as listed buildings ecclesiastical exemption. Those sections relate to listed building control, including: building preservation notices; restrictions on works of demolition, alteration or extension; compulsory acquisition of buildings in need of repair; urgent preservation works by a local authority and the Welsh Ministers; and offences in relation to intentional damage.

Section 75 of the 1990 Act provides that ecclesiastical buildings which are for the time being used for ecclesiastical purposes are not subject to section 74 of the 1990 Act. Section 74 relates to the control of demolition of buildings in conservation areas. This is the conservation area consent ecclesiastical exemption.

This Order removes the listed buildings ecclesiastical exemption in the case of all ecclesiastical buildings other than for those cases falling within article 4. Under article 4 the exemption is retained in respect of church buildings of the Church in Wales, the Church of England, the Roman Catholic Church, the Methodist Church, the Baptist Union of Great Britain and the Baptist Union of Wales provided that the building in question’s primary use is as a place of worship and subject to the restrictions set out in that article.

A church building includes—

- (a) any object or structure fixed to the church building;
- (b) any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land.

(This is now the case whether or not that object or structure is listed in its own right.)

Article 6 provides that if an application for listed building consent in relation to any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land (as defined in article 4(1)(b)) has already been made before the coming into force date of this Order, then this Order will not apply to that application and the local planning authority will continue to determine it.

This Order also removes the conservation area consent ecclesiastical exemption from all ecclesiastical buildings.

Article 1(3) provides that the loss of ecclesiastical exemption does not affect any works which have commenced, or in respect of which a contract has been made, before the Order comes into force.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from Historic Environment Services (Cadw), The Welsh Government, Plas Carew, Cardiff, CF15 7QQ and on the Welsh Government’s website at www.gov.wales.