

**Explanatory Memorandum to The Historic Environment (Wales) Act 2023
(Consequential Provision) (Primary Legislation) Regulations 2024.**

This Explanatory Memorandum has been prepared by Cadw (Education, Culture and Welsh Language Group) and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Historic Environment (Wales) Act 2023 (Consequential Provision) (Primary Legislation) Regulations 2024.

Jack Sargeant MS
MINISTER FOR CULTURE, SKILLS AND SOCIAL PARTNERSHIP

01 October 2024

PART 1

Description

1. These Regulations make amendments to primary legislation which are consequential on the commencement of the Historic Environment (Wales) Act 2023 ('the 2023 Act') which received Royal Assent in June 2023. The 2023 Act consolidates and restates primary and secondary legislation relating to the historic environment and incorporates some related case law and practice.

Matters of special interest to the Legislation, Justice and Constitution Committee

2. These regulations are part of a package of regulations to implement the 2023 Act.

Legislative background

3. These regulations are made under section 211(3) and (4) of the 2023 Act, which allows regulations to make consequential provisions and amend, repeal or revoke any enactment, including any provision of the 2023 Act.
4. As these regulations amend primary legislation, in accordance with section 209(5) of the 2023 Act, the instrument is subject to approval of the Senedd under the affirmative procedure.

Purpose and intended effect of the legislation

5. The 2023 Act is the first consolidation Act in the Welsh Government's initial five-year programme to improve the accessibility of Welsh law [The future of Welsh law: revised accessibility programme 2021 to 2026 | GOV.WALES](#) . This historic piece of legislation provides fully bilingual law for the effective protection and management of our unique historic environment so that it can continue to contribute to the well-being of Wales and its people.
6. The Counsel General's accessibility programme also includes a commitment to make the subordinate legislation required to implement the 2023 Act.
7. No policy change is made. Schedule 13 of the 2023 Act contains amendments that are necessary in consequences of consolidating historic environment legislation in that Act. Some make provision for the appropriate citation of the Act in existing legislation. Others are needed to extract Wales from the historic environment legislation which will remain in effect in England, in particular the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act").

8. Regulation 3 amends Schedule 1 of the Harbour Act 1964 to update a reference to section 3 of the 2023 Act.
9. Regulation 4 omits a provision which is not relevant to Wales.
10. Some provisions of the 1990 Act are amended by both Schedule 13 of HEWA and the Levelling Up and Regeneration Act 2023 (“LURA”), and their effective operation depends on the order in which they are commenced. Parts of LURA have been commenced and have changed provisions in the 1990 Act on which parts of Schedule 13 of the 2023 Act operate. Regulations 3 to 20 make changes to Schedule 13 to take account of the changes made by LURA so that Schedule 13 continues to work as originally intended.
11. Regulation 21 in effect amends LURA so that overlapping provisions will work after the 2023 Act is commenced. [Inserted paragraph 200 ensures that they can work without any further adjustment needed by the Secretary of State when section 104 LURA is commenced.]
12. Regulation 22 is a saving provision for building preservation notices which came into force before section 105(3) LURA is commenced.
13. The risk of not making these Regulations is that Schedule 13 of the 2023 Act will not operate effectively.

Consultation

14. No consultation has been undertaken on the regulations, as they reflect current policy and restate current procedures.

Regulatory Impact Assessment (RIA)

15. A Regulatory Impact Assessment has not been prepared for these regulations, as the regulations restate existing regulations. The regulations do not alter the policy (or its impact) in any significant way or how it is applied in a given situation. This is in line with the policy set out in the Welsh Ministers’ code of practice for carrying out regulatory impact assessments for subordinate legislation.