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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Heritage partnership agreements: regulations and guidance

Date of issue: 18 January 2021
Action required: Responses by 12 April 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This consultation seeks your views on:

- the draft The Scheduled Monuments (Heritage Partnership Agreements) (Wales) Regulations 2021
- the draft The Listed Buildings (Heritage Partnership Agreements) (Wales) Regulations 2021
- draft guidance, *Heritage Partnership Agreements in Wales*.
- Heritage Partnership Agreement Regulations — Regulatory Impact Assessment
- Heritage Partnership Agreement Regulations — Integrated Impact Assessment

This consultation has been developed as a component of a wider programme to improve the protection and management of the Welsh historic environment.

How to respond

This consultation will close on 12 April 2021. You may respond online, by email or by post.

Online

Please complete the online questionnaire on the consultation pages of the Welsh Government website: <https://gov.wales/heritage-partnership-agreements-regulations-and-guidance>

Email

Please complete the consultation response form at Annex F and send it to: historicenvironmentleg@gov.wales

Post

Please complete the consultation response form at Annex F and send it to:

Heritage Partnership Agreement Consultation
Cadw
Welsh Government
Cathays Park
Cardiff CF10 3NQ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Ancient Monuments and Archaeological Areas Act 1979
<https://www.legislation.gov.uk/ukpga/1979/46/contents>

Planning (Listed Buildings and Conservation Areas) Act 1990
<https://www.legislation.gov.uk/ukpga/1990/9/contents>

Historic Environment (Wales) Act 2016
<https://www.legislation.gov.uk/anaw/2016/4/contents>

Conservation Principles for the Sustainable Management of the Historic Environment
<https://cadw.gov.wales/advice-support/conservation-principles/conservation-principles>

Heritage Impact Assessment in Wales
<https://cadw.gov.wales/advice-support/placemaking/heritage-impact-assessment/heritage-impact-assessment>

Managing Change to Listed Buildings
<https://cadw.gov.wales/advice-support/historic-assets/listed-buildings/managing-change-to-listed-buildings>

Managing Scheduled Monuments in Wales
<https://cadw.gov.wales/advice-support/historic-assets/scheduled-monuments/best-practice-guidance#section-managing-scheduled-monuments-in-wales>

Contact details

For further information:

historicenvironmentleg@gov.wales

Heritage partnership agreement consultation
Cadw
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

03000 259 096

This document is also available in Welsh

<https://llyw.cymru/cytundebau-partneriaeth-dreftadaeth-rheoliadau-chanllawiau>

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:
Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

Background

The historic environment is a vital part of our shared cultural heritage. It shapes our sense of place and contributes to our well-being and quality of life. Listed buildings and scheduled monuments play an important role in the Welsh historic environment, often as focal points within towns and communities where they make significant economic, social and cultural contributions as visitor attractions, businesses, community, education and leisure facilities, and homes.

Currently, owners of listed buildings and scheduled monuments must apply for consent to carry out works to their historic assets. Owners engaged in long-term programmes of works or responsible for multiple historic assets may find that they have to make numerous, and often repetitive, consent applications. This can be costly and time consuming for them as well as for the consenting authorities.

The Historic Environment (Wales) Act 2016 amended both the Ancient Monuments and Archaeological Areas Act 1979 ('the 1979 Act') and the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the 1990 Act') to make provision for heritage partnership agreements in Wales.

A heritage partnership agreement is a voluntary arrangement for the long-term management of one or more designated historic assets. It is negotiated between the owner of the asset/s, the relevant consenting authority or authorities and any other interested parties. Crucially, a heritage partnership agreement can incorporate listed building and/or scheduled monument consents for an agreed programme of works to be carried out during the lifetime of the agreement, which may last for as long as 10 to 15 years.

A heritage partnership agreement supports the beneficial, long-term management of historic assets by setting out agreed conservation objectives, identifying the actions needed to meet them in a planned programme of works and providing the necessary consents. The agreement therefore can provide the basis for a comprehensive and consistent approach to the management of scheduled monuments and listed buildings, whether located together on a single estate or scattered across one or more local authority areas.

Although the parties involved will have to invest time and resources in its development, once the agreement is finalised it will deliver many benefits. For the owner, it will provide the assurance of a long-term historic asset management plan that has received the approval of the relevant consenting authority or authorities. A consenting authority — whether a local planning authority for a listed building or Cadw for a scheduled monument — will also benefit by realising time and cost savings since the consents contained in the heritage partnership agreement will eliminate the need to receive and process multiple individual consent applications, often for similar and minor works.

The designated assets, too, will benefit from inclusion in an agreement. The heritage partnership agreement's management plan will support the consistent conservation of the assets, whether over time or across planning boundaries. This long-term approach to the careful and sustainable management of change will reduce the likelihood of unplanned or inappropriate changes that could lead to costly repairs.

What are we proposing?

Draft Regulations — The Scheduled Monuments (Heritage Partnership Agreements) (Wales) Regulations 2021 (Annex A)

Sections 9ZA and 9ZB of the 1979 Act provide the statutory framework for scheduled monument heritage partnership agreements, but also require the Welsh Ministers to make regulations on the following:

- i. the consultation that must take place before a heritage partnership agreement is made or varied;
- ii. the publicity that must be given to a heritage partnership agreement before or after it is made or varied;
- iii. specifying terms that must be included in a heritage partnership agreement; and
- iv. enabling the Welsh Ministers to terminate by order a heritage partnership agreement or any provision of such an agreement.

The Act also provides for regulations to apply, disapply or reproduce sections of the 1979 Act for the purposes of heritage partnership agreements.

The Scheduled Monuments (Heritage Partnership Agreements) (Wales) Regulations 2021, which have been formulated to meet those requirements, are now presented in draft in **Annex A**.

Any changes to the regulations considered appropriate as a result of this consultation will be made before they are laid before the Senedd for approval. Once the regulations have received that approval, the heritage partnership agreement provisions in the 1979 Act will come into full effect.

Draft Regulations — The Listed Buildings (Heritage Partnership Agreements) (Wales) Regulations 2021 (Annex B)

Sections 26L and 26M of the 1990 Act provide the regulatory framework for listed building heritage partnership agreements, but also require the Welsh Ministers to make regulations on the following:

- i. the consultation that must take place before a heritage partnership agreement is made or varied;
- ii. the publicity that must be given to a heritage partnership agreement before or after it is made or varied;
- iii. specifying terms that must be included in a heritage partnership agreement;
- iv. enabling the Welsh Ministers to terminate by order a heritage partnership agreement or any provision of such an agreement; and
- v. enabling any local planning authority who is a party to a listed building heritage partnership agreement to terminate the agreement, or any provision of the agreement, by order.

The Act also provides for regulations to apply, disapply or reproduce certain sections of the 1990 Act for the purposes of heritage partnership agreements.

The Listed Buildings (Heritage Partnership Agreements) (Wales) Regulations 2021, which have been formulated to meet those requirements, are now presented in draft in **Annex B**.

Any changes to the regulations considered appropriate as a result of this consultation will be made before they are laid before the Senedd for approval. Once the regulations have received that approval, the heritage partnership agreement provisions for Wales in the 1990 Act will come into full effect.

Draft Guidance — Heritage Partnership Agreements in Wales (Annex C)

Since heritage partnership agreements will be new to Wales, Cadw has developed draft guidance to support their introduction: *Heritage Partnership Agreements in Wales*. It is attached at **Annex C**. The guidance aims to assist owners and consenting authorities alike by explaining the benefit and scope of heritage partnership agreements, the nature of the works that can be included in such an agreement, and how to set up an agreement. It also sets out the administrative arrangements that need to be followed once an agreement is in place.

Regulatory Impact Assessment (Annex D)

A regulatory impact assessment has been prepared to accompany the draft regulations and is attached at **Annex D**. An assessment of the costs and benefits of heritage partnership agreements was prepared to accompany the scrutiny of the Historic Environment (Wales) Bill 2016. This regulatory impact assessment does not repeat that assessment, but looks instead at the various options available to the Welsh Ministers when making the regulations set out above under the 1979 and 1990 Acts. It assesses the costs and benefits of each option, concluding that a flexible approach is needed to ensure the best outcome for parties to the agreement and to the historic assets themselves.

Draft Integrated Impact Assessment (Annex E)

An integrated impact assessment for the draft regulations has been undertaken and is attached in full at **Annex E**. Although the assessment recognises that heritage partnership agreements will support the sustainable management of the historic environment, promote public engagement and protect culture and heritage, it acknowledges that the regulations themselves, which are procedural and administrative in nature, will have minimal direct impact.

Consultation Response Form

Your name:

Organisation (if applicable):

E-mail / telephone number:

Your address:

Type
(please select one from the following)

Individual

Business

Local planning authority

Archaeological trust

Government agency/Other public sector body

Professional body

Interest group

Voluntary sector (community group, volunteer group, self-help group, cooperative enterprise, not-for-profit organisation)

Other group not listed above

Q1: The draft guidance, heritage partnership agreements in Wales, is intended to help owners and consenting authorities to set up and manage heritage partnership agreements. The main guidance relating to setting up an agreement appears in section 3. Is there sufficient detail here to support the creation of a heritage partnership agreement?

Yes No

If not, how could it be improved?

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Q2: The consultation and publicity arrangements for heritage partnership agreements are set out in:

- regulations 5 to 7 and 9 of the draft Listed Buildings (Heritage Partnership Agreements) (Wales) Regulations 2021
- regulations 4 to 5 of the draft Scheduled Monuments (Heritage Partnership Agreements) (Wales) Regulations 2021
- section 4 of the draft guidance, heritage partnership agreements in Wales

Are these arrangements clear and workable?

Yes No

If not, how can they be improved?

Q3: It is intended that minor alterations to heritage partnership agreements will not trigger the publicity and consultation requirements specified in:

- regulation 5 of the draft Listed Buildings (Heritage Partnership Agreements) (Wales) Regulations 2021
- regulation 4 of the draft Scheduled Monuments (Heritage Partnership Agreements) (Wales) Regulations 2021

The draft guidance, heritage partnership agreements in Wales, expands on these requirements in paragraph 3.10. Can you provide examples of changes that you believe heritage partnership agreements should be able to accommodate without requiring full publicity and consultation?

Q4: Section 7 of the draft guidance, heritage partnership agreements in Wales, provides a template for a heritage partnership agreement. Do you think this template will be helpful?

Yes No

If not, how could it be improved?

Q5: The regulatory impact assessment in annex D analyses the costs and benefits of the proposed heritage partnership agreement regulations. Do you have other information or evidence that would be useful to add to this assessment?

Q6: The draft integrated impact assessment in annex E considers the impact of the proposed heritage partnership agreement regulations in a number of spheres. Do you have other information or evidence that would be useful to add to this assessment?

Question A: We are under a duty to consider the effects of our policy decisions on the Welsh language, under the requirements of the Welsh Language (Wales) Measure 2011.

We would like to know your views on the effects that the proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question B: Please also explain how you believe the proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh

language no less favorably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language.

Question C: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: