



department for
culture, media
and sport

Heritage Protection for the 21st Century Regulatory Impact Assessment

March 2007

improving
the quality
of life for all

of State for Communities and Local Government and the Welsh Assembly Government. In England SMC applications are determined by the Secretary of State for Culture, Media and Sport, and in Wales, the Welsh Assembly Government.

Consent applications per annum	England	Wales
LBC	32000	c1000
CAC	3400	c100
SMC	1000	100

9. There is also a system of licensing for various activities carried out within the restricted area around a designated wreck. There are approximately 60 licences given for the UK per annum for a range of activities ranging from visiting, survey to surface recovery and excavation. These are determined by the appropriate Minister depending on where in the UK the wreck site is located.
10. In addition to these consent systems, local planning authorities, the Secretary of State for Culture, Media and Sport and the Welsh Assembly Government have enforcement powers in relation to listed buildings. The Secretary of State for Culture, Media and Sport and the Welsh Assembly Government also have powers relating to the compulsory purchase of listed buildings and scheduled ancient monuments.
11. In England, the Government's statutory adviser on the historic environment is English Heritage. In addition to advising the Secretary of State for Culture, Media and Sport and the Secretary of State for Communities and Local Government, English Heritage works directly with local planning authorities on planning cases affecting designated historic assets. It also advises the Secretary of State for Environment, Food and Rural Affairs and works with Natural England on management of the historic environment outside the planning system, including through Environmental Stewardship schemes. Since 2002, English Heritage has also had responsibility for advising Government and other organisations (including licensing bodies, aggregate dredgers and developers) on issues and best practice relating to the marine historic environment within English territorial waters. There is no comparable body to English Heritage in Wales, although advice on proposals affecting the historic environment is provided by local planning authorities and the Welsh Assembly Government through its historic environment service, Cadw.

Rationale for government intervention

12. The UK Government and the Welsh Assembly Government have a direct role in regulating change to the historic environment and in setting the regulatory framework for local planning authorities.

CONSULTATION

Within Government

15. Key departments affected by these proposals have been consulted, including Communities and Local Government (CLG), the Department for Environment, Food and Rural Affairs, the Department for Transport, the Scottish Executive, and the Department of Environment Northern Ireland. Individual departments and agencies have also responded to the formal public consultation exercises that have been carried out at various stages of the project. The Welsh Assembly Government has been involved in the process throughout and has produced the Welsh chapter.
16. The proposals in this document have also been cleared with the Panel for Regulatory Accountability.

Public consultation

17. There has been extensive public consultation on these proposals in England and Wales.
 - In 2003, a public consultation was carried out on key proposals for change. Over 500 responses were received to this consultation. The same year, a separate consultation was carried out (in England) on Historic Environment Records and over 150 responses were received.
 - In 2004 further consultations were carried out on the protection of the marine historic environment (UK-wide) and the future of the ecclesiastical exemption (in England). Over 100 responses were received to each of these consultations.

- In 2005 an England-only public consultation was carried out on proposed revisions to the principles of selection used when selecting buildings for listing. Over 100 responses were received to this consultation. No comparable consultation occurred in Wales as that year saw the completion of the national listing resurvey.
18. In addition to these formal consultations, DCMS has taken part in a series of stakeholder seminars run by English Heritage that reached over 500 heritage sector professionals, including local authority representatives. The Culture, Media and Sport Committee also invited interested parties to comment on the proposed reform programme as part of its wide-ranging 2005/06 inquiry on *Protecting and Preserving our Heritage*. In Wales, the Welsh Assembly Government held a similar stakeholder seminar and consulted widely on its findings. The Assembly Culture Committee also considered the proposals at meetings in 2003 and November 2006.

OPTIONS

19. Three options have been considered as part of developing policy proposals for heritage protection reform:

Option 1 – Do nothing

20. The existing heritage protection system continues to operate. The risks attached to this option are set out in Section 2 (Rationale for Government intervention).

not be considered a new burden. The exception would be in relation to scheduled monuments under cultivation and currently covered by Class Consent No.1. Following removal of this, it is estimated that negotiation of an additional 350 HPAs would be required in England, resulting in cumulative costs of c£80,000. In practice, we would expect these costs to be reduced due to the availability of alternative management options such as Environmental Stewardship. The latter is also applicable to Wales and it is anticipated that HPAs can be negotiated within existing budgets.

57. The number of HERs is expected to remain stable. Our expectation would be that self-imposed pressure on local authorities as a consequence of increased public access to their data services via the Heritage Gateway and the Planning Portal, together with their integration into ongoing programmes to implement local e-government, will stimulate improvement in HER provision and performance. Fees applicable to commercial use of HER resources would remain discretionary, as would the inclusion of information on marine historic assets in adjacent UK territorial waters.
58. Costs arising from reform of the marine heritage protection system are expected to be negligible.

SMALL FIRMS IMPACT TEST

59. Small firms have been consulted on these proposals as part of wider consultation processes (see Section 3).
60. Representatives of the Country Land & Business Association and organisations involved in property investment, architecture and the delivery of sustainable communities have acted as members of the HPR Steering Committee.
61. The Institute of Field Archaeologists and the Institute of Historic Building Conservation – the professional institutes whose members will often be responsible for the delivery of local archaeological and conservation services, either as part of a local authority unit or a commercial service provider – have also been closely involved in the preparation of these proposals.
62. Representatives of diving and salvage organisations, licensees and other sea-users were represented on the working groups convened as part of the marine review.
63. The recommendations in *Heritage Protection for the 21st Century* are unlikely to have a significant detrimental effect on small business. Small businesses are likely to benefit from a clearer designation process, from quicker decision times on designation cases, and from a clearer and more consistent heritage consent process. Potential implications for farmers are discussed, where appropriate, in Sections 5 & 6.

Offence	Penalty
<ul style="list-style-type: none"> • Executing or causing to be executed works for the demolition, alteration or extension of a listed building (or one subject to a BPN) in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised or failing to comply with any condition attached to LBC. 	<ul style="list-style-type: none"> • On summary conviction a fine of up to £20,000 and/or imprisonment for up to 6 months, on conviction on indictment an unlimited fine and/or imprisonment for up to 2 years.
<ul style="list-style-type: none"> • Breaching an enforcement notice. 	<ul style="list-style-type: none"> • On summary conviction a fine of up to £20,000, on conviction on indictment an unlimited fine.
<ul style="list-style-type: none"> • Causing damage to listed building. 	<ul style="list-style-type: none"> • On summary conviction a fine of up to £1,000
<ul style="list-style-type: none"> • Unauthorised demolition of a building in a conservation area or failure to comply with any condition attached to conservation area consent 	<ul style="list-style-type: none"> • On summary conviction a fine of up to £20,000 and/or imprisonment for up to 6 months, on conviction on indictment an unlimited fine and/or imprisonment for up to 2 years.
<ul style="list-style-type: none"> • Wilfully obstructing a person acting in the exercise of statutory powers to enter land and take steps specified in a listed building enforcement notice. 	<ul style="list-style-type: none"> • On summary conviction a fine not exceeding £1,000
<ul style="list-style-type: none"> • Issuing, with regards to an application for LBC, CAC or SMC or appeal in relation to LBC or CAC, a certificate as to the applicant's status etc which contains a statement that is known to be false or misleading in a material particular; or recklessly issuing a certificate which contains a statement that is known to be false or misleading in a material particular. 	<ul style="list-style-type: none"> • On summary conviction a fine not exceeding £1,000
<ul style="list-style-type: none"> • Executing works to a scheduled monument without authorisation or failing to comply with a condition attached to authorisation. 	<ul style="list-style-type: none"> • On summary conviction a fine up to £5,000, unlimited fine on conviction on indictment.
<ul style="list-style-type: none"> • Destroying or damaging a scheduled monument. 	<ul style="list-style-type: none"> • On summary conviction a fine up to £5,000 and/or up to 6 months' imprisonment, on conviction on indictment an unlimited fine and/or imprisonment for up to 2 years.
<ul style="list-style-type: none"> • Unauthorised use of a metal detector in a protected place. 	<ul style="list-style-type: none"> • On summary conviction a fine up to £1,000
<ul style="list-style-type: none"> • In relation to protected wrecks: <ul style="list-style-type: none"> - Otherwise than under authority of a licence granted by the Secretary of State to, a) tamper with a vessel b) carry out diving or salvage operations c) deposit anything which would damage the wreck or obscure access to it or to cause or permit such activities to take place. - Entering a prohibited area without authority. - Obstructing someone carrying out salvage or diving operations with a licence. 	<ul style="list-style-type: none"> • On summary conviction a fine up to £5,000 • On conviction on indictment, an unlimited fine



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