



# Historic Environment (Amendment) (Scotland) Act 2011 2011 asp 3

## PART 2

### MODIFICATIONS OF THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979

#### *Defences*

#### **3 Offences under sections 2, 28 and 42: modification of defences**

- (1) The 1979 Act is amended in accordance with this section.
- (2) In section 2(8), for the words “prove that” substitute “show that, before executing, causing the execution of or, as the case may be, permitting the execution of the works—
  - (a) he had taken all reasonable steps to find out whether there was a scheduled monument within the area affected by the works, and”.
- (3) In section 28(1) (offence of damaging certain ancient monuments)—
  - (a) for the word “lawful” substitute “reasonable”,
  - (b) after “monument”, where it first occurs, insert “shall be guilty of an offence if the person”,
  - (c) in paragraph (a), for the words “knowing that it is” substitute “knew or ought to have known that it was”,
  - (d) in paragraph (b)—
    - (i) for the word “intending” substitute “intended”,
    - (ii) for the word “being” substitute “was”,
  - (e) the words “shall be guilty of an offence” are repealed.
- (4) In section 42 (restrictions on use of metal detectors)—
  - (a) in subsection (6) for the word “prove” substitute “show”,
  - (b) in subsection (7)—
    - (i) for the words “prove that he had taken all reasonable precautions” substitute “show that—

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**Changes to legislation:** *There are currently no known outstanding effects for the Historic Environment (Amendment) (Scotland) Act 2011, Cross Heading: Defences. (See end of Document for details)*

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- (a) he had taken all reasonable steps”,
- (ii) for the words “and did not believe that it was” substitute “; and
- (b) he did not know and had no reason to believe that that place was a protected place”.

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**Commencement Information**

**II** [S. 3](#) in force at 1.12.2011 by [S.S.I. 2011/372](#), art. 2, [Sch.](#)

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