



Ancient Monuments and Archaeological Areas Act 1979

1979 CHAPTER 46

PART I

ANCIENT MONUMENTS

Miscellaneous and supplemental

28 Offence of damaging certain ancient monuments.

- (1) A person who without [^{F1}lawful][^{F1}reasonable] excuse destroys or damages any protected monument [^{F2}situated in England][^{F3}shall be guilty of an offence if the person]—
- (a) [^{F4}knowing that it is][^{F4}knew or ought to have known that it was] a protected monument; and
 - (b) [^{F5}intending][^{F5}intended] to destroy or damage the monument or [^{F6}being][^{F6}was] reckless as to whether the monument would be destroyed or damaged;
- [^{F7}shall be guilty of an offence.]

- [^{F8}(1A) A person who without lawful excuse destroys or damages a protected monument situated in Wales is guilty of an offence if the person—
- (a) knew or ought reasonably to have known that it was a protected monument; and
 - (b) intended to destroy or damage the monument or was reckless as to whether the monument would be damaged or destroyed.]
- (2) This section applies to anything done by or under the authority of the owner of the monument, other than an act for the execution of excepted works, as it applies to anything done by any other person.

Changes to legislation: Ancient Monuments and Archaeological Areas Act 1979, Section 28 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

In this subsection “excepted works” means works for which scheduled monument consent has been given under this Act (including any consent granted by order under section 3) [^{F9}or for which development consent has been granted].

(3) In this section “protected monument” means any scheduled monument and any monument under the ownership or guardianship of the Secretary of State [^{F10}or the Commission] or a local authority by virtue of this Act.

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding [^{F11}the statutory maximum][^{F11}£50,000] or to imprisonment for a term not exceeding six months or both; or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

[^{F12}(5) In determining the amount of any fine to be imposed on a person under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.]

Textual Amendments

- F1** Word in s. 28(1) substituted (S.) (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\), ss. 3\(3\)\(a\), 33\(2\); S.S.I. 2011/372, art. 2, Sch.](#)
- F2** Words in s. 28(1) inserted (E.W.) (21.5.2016) by [Historic Environment \(Wales\) Act 2016 \(anaw 4\), ss. 16\(2\), 41\(2\)](#)
- F3** Words in s. 28(1) inserted (S.) (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\), ss. 3\(3\)\(b\), 33\(2\); S.S.I. 2011/372, art. 2, Sch.](#)
- F4** Words in s. 28(1)(a) substituted (S.) (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\), ss. 3\(3\)\(c\), 33\(2\); S.S.I. 2011/372, art. 2, Sch.](#)
- F5** Word in s. 28(1)(b) substituted (S.) (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\), ss. 3\(3\)\(d\)\(i\), 33\(2\); S.S.I. 2011/372, art. 2, Sch.](#)
- F6** Word in s. 28(1)(b) substituted (S.) (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\), ss. 3\(3\)\(d\)\(ii\), 33\(2\); S.S.I. 2011/372, art. 2, Sch.](#)
- F7** Words in s. 28(1) repealed (S.) (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\), ss. 3\(3\)\(e\), 33\(2\); S.S.I. 2011/372, art. 2, Sch.](#)
- F8** [S. 28\(1A\) inserted \(E.W.\) \(21.5.2016\) by Historic Environment \(Wales\) Act 2016 \(anaw 4\), ss. 16\(3\), 41\(2\)](#)
- F9** Words in s. 28(2) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\), s. 241\(8\), Sch. 2 para. 18 \(with s. 226\); S.I. 2010/101, art. 2 \(with art. 6\)](#)
- F10** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 50](#)
- F11** Words in s. 28(4) substituted (S.) (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\), ss. 4\(3\)\(a\), 33\(2\); S.S.I. 2011/372, art. 2, Sch.](#)
- F12** [S. 28\(5\) added \(S.\) \(1.12.2011\) by Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\), ss. 4\(3\)\(b\), 33\(2\); S.S.I. 2011/372, art. 2, Sch.](#)

Modifications etc. (not altering text)

- C1** [S. 28 excluded \(18.12.1996\) by 1996 c. 61, s. 12, Sch. 7 para. 4\(9\)](#)
- C2** [S. 28 excluded \(22.7.2008\) by Crossrail Act 2008 \(c. 18\), Sch. 9 para. 4\(9\)](#)
- C3** [S. 28 excluded \(23.2.2017\) by High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\), s. 70\(1\), Sch. 19 para. 1\(9\)](#)
- C4** [S. 28 excluded \(11.2.2021\) by High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\), s. 64\(1\), Sch. 19 para. 1\(9\)](#)

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C5 S. 28(1) savings for effects of 2011 asp 3 s. 3(3) (S.) (1.12.2011) by [The Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(Saving, Transitional and Consequential Provisions\) Order 2011 \(S.S.I. 2011/377\)](#), arts. 1(1), **2(b)**

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Changes and effects yet to be applied to :

- s. 28(1) words omitted by [2023 asc 3 Sch. 13 para. 34\(a\)](#)
- s. 28(1A) omitted by [2023 asc 3 Sch. 13 para. 34\(b\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(3A) inserted by [2023 asc 3 Sch. 13 para. 20\(b\)](#)
- s. 1AA-1AE omitted by [2023 asc 3 Sch. 13 para. 21](#)
- s. 7(4A) inserted by [2016 anaw 4 s. 10\(2\)](#)
- s. 33(1A) inserted by [2023 asc 3 Sch. 13 para. 35\(a\)](#)