



# Ancient Monuments and Archaeological Areas Act 1979

## 1979 CHAPTER 46

### PART II

#### ARCHAEOLOGICAL AREAS

#### **35 Notice required of operations in areas of archaeological importance.**

- (1) Subject to section 37 of this Act, if any person carries out, or causes or permits to be carried out, on land in an area of archaeological importance any operations to which this section applies—
  - (a) without having first served a notice relating to those operations which complies with subsections (4) and (5) below; or
  - (b) within six weeks of serving such a notice;he shall be guilty of an offence.
- (2) Subject to section 37 of this Act, this section applies to any of the following operations, that is to say—
  - (a) operations which disturb the ground;
  - (b) flooding operations; and
  - (c) tipping operations.
- (3) In this Part of this Act the person carrying out or proposing to carry out any operations is referred to, in relation to those operations, as “the developer”, and a notice complying with subsections (4) and (5) below is referred to as an “operations notice”.
- (4) A notice required for the purposes of this section—
  - (a) shall specify the operations to which it relates, the site on which they are to be carried out, the date on which it is proposed to begin them and, where the operations are to be carried out after clearance of the site, the developer’s estimated date for completion of the clearance operations;

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**Changes to legislation:** Ancient Monuments and Archaeological Areas Act 1979, Section 35 is up to date with all changes known to be in force on or before 07 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

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- (b) shall be accompanied by a certificate in the prescribed form which satisfies the requirements of section 36 of this Act; and
  - (c) shall be in the prescribed form.
- (5) A notice required for the purposes of this section shall be served by the developer—
- (a) in the case of land in England <sup>F1</sup>... , on the district council or London borough council or (as the case may be) on each district council or London borough council in whose area the site of the operations is wholly or partly situated;
  - [<sup>F2</sup>(aa) in the case of land in Wales, on the council of each county or county borough in which the site of the operations is wholly or partly situated;]
  - (b) in the case of land in Scotland, on the local authority or (as the case may be) on each local authority in whose area the site of the operations is wholly or partly situated; or
  - (c) in a case where the developer is any such council or local authority, on the Secretary of State.
- (6) Regulations made by the Secretary of State may prescribe the steps to be taken by any council or local authority on whom an operations notice is served in accordance with subsection (5) above.
- (7) Where an operations notice is served with respect to operations which are to be carried out after clearance of any site, the developer shall notify the investigating authority for the area of archaeological importance in question of the clearance of the site immediately on completion of the clearance operations.
- (8) If in a case falling within subsection (7) above the developer carries out, or causes or permits to be carried out, any of the operations to which the operations notice relates without having first notified the investigating authority of the clearance of the site in accordance with that subsection, this section shall have effect in relation to those operations as if the operations notice had not been served.
- (9) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment to a fine.
- (10) Without prejudice to section 222 of the <sup>M1</sup>Local Government Act 1972, any such council as is mentioned in subsection (5)(a) above may institute proceedings for an offence under this section in respect of operations on any site situated partly in their area notwithstanding that the operations are confined to a part of the site outside their area; and if it appears to any such council or, in Scotland, to any local authority—
- (a) that any operations are being, or are about to be, carried out in contravention of this section on any site situated wholly or partly in their area; and
  - (b) that the site contains or is likely to contain anything of archaeological or historical interest which will be disturbed, damaged, destroyed or removed without proper archaeological investigation if operations are carried out on the site without regard for the provisions of this Part of this Act;
- that council or local authority may take proceedings in the High Court or, in Scotland, in any court of competent jurisdiction for the purpose of securing an injunction or interdict prohibiting those operations from being carried out in contravention of this section.

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[<sup>F3</sup>(11) This section shall have effect, in relation to any land within the Broads (as defined by the Norfolk and Suffolk Broads Act 1988), as if the Broads Authority were the district council (to the exclusion of the authority which is otherwise the district council for the area in question) and the Broads were its local authority area.]

#### Textual Amendments

- F1** Words in s. 35(5)(a) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 56(2), **Sch.18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch.2**
- F2** S. 35(5)(aa) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 56(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch.2**
- F3** S. 35(11) added (E.W.) by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5)(6), 23(2), 27(2), Sch. 3 para. 30(2), **Sch. 7**

#### Modifications etc. (not altering text)

- C1** S. 35 excluded by S.I. 1984/1286, **art. 2(1)**
- C2** S. 35 extended (E.W.)(19.9.1995) by 1995 c. 25, ss. 70, 125, **Sch. 9 para. 10(2)**(with ss. 7(6), 115, 117, Sch. 8 para. 7).
- C3** S. 35 excluded (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 4(10)**
- C4** S. 35 excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 9 para. 4(10)**
- C5** S. 35 excluded (23.2.2017) by High Speed Rail (London - West Midlands) Act 2017 (c. 7), s. 70(1), **Sch. 19 para. 1(10)**
- C6** S. 35 excluded (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), s. 64(1), **Sch. 19 para. 1(10)**

#### Marginal Citations

- M1** 1972 c. 70.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 35(5)(aa) omitted by [2023 asc 3 Sch. 13 para. 36](#)

**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\(a\)](#)