



Ancient Monuments and Archaeological Areas Act 1979

1979 CHAPTER 46

PART III

MISCELLANEOUS AND SUPPLEMENTAL

Restrictions on use of metal detectors

42 Restrictions on use of metal detectors.

(1) If a person uses a metal detector in a protected place without the written consent [^{F1}of Historic Environment Scotland (in the case of a place situated in Scotland),] of the [^{F2}Commission (in a case of a place situated in England) or of the Secretary of State (in any other case)] he shall be guilty of an offence and liable on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding [^{F3}level 3 on the standard scale].

(2) In this section—

“metal detector” means any device designed or adapted for detecting or locating any metal or mineral in the ground; and

“protected place” means any place which is either—

- (a) the site of a scheduled monument or of any monument under the ownership or guardianship of the Secretary of State [^{F4}, Historic Environment Scotland][^{F5}or the Commission] or a local authority by virtue of this Act; or
- (b) situated in an area of archaeological importance.

^{F6}(3) If a person without [^{F7}written consent] removes any object of archaeological or historical interest which he has discovered by the use of a metal detector in a protected place he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

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[^{F8}The reference in this subsection to written consent is to that [^{F6}of Historic Environment Scotland (where the place in question is situated in Scotland),] of the Commission (where the place in question is situated in England) or of the Secretary of State (in any other case)]

(4) A consent granted by [^{F9}Historic Environment Scotland,] the Secretary of State [^{F10}or the Commission] for the purposes of this section may be granted either unconditionally or subject to conditions.

(5) If any person—

- (a) in using a metal detector in a protected place in accordance with any consent granted by [^{F11}Historic Environment Scotland,] the Secretary of State [^{F10}or the Commission] for the purposes of this section; or
- (b) in removing or otherwise dealing with any object which he has discovered by the use of a metal detector in a protected place in accordance with any such consent;

fails to comply with any condition attached to the consent, he shall be guilty of an offence and liable, in a case falling within paragraph (a) above, to the penalty provided by subsection (1) above, and in a case falling within paragraph (b) above, to the penalty provided by subsection (3) above.

(6) In any proceedings for an offence under subsection (1) above, it shall be a defence for the accused to [^{F12}show] that he used the metal detector for a purpose other than detecting or locating objects of archaeological or historical interest.

(7) In any proceedings for an offence under subsection (1) or (3) above, it shall be a defence for the accused to [^{F13}show that—

- (a) he had taken all reasonable steps]

to find out whether the place where he used the metal detector was a protected place [^{F14}, and

- (b) he did not know and had no reason to believe that that place was a protected place]

Annotations:

Amendments (Textual)

- F1** Words in s. 42(1) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 45(a)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F2** Words substituted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 60(2)(6)**
- F3** Words substituted by virtue of Criminal Justice Act 1982 (c. 48), s. 46 and Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289G (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)
- F4** Words in s. 42(2) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 45(b)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F5** Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 60(3)(6)**
- F6** Words in s. 42(3) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 45(c)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F7** Words substituted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 60(4)(6)**
- F8** Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 60(4)(6)**

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- F9** Words in s. 42(4) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 45(d)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F10** Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 60(5)(6)**
- F11** Words in s. 42(5)(a) inserted (S.) (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Historic Environment Scotland Act 2014 (asp 19), s. 31(2), **sch. 2 para. 45(e)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F12** Word in s. 42(6) substituted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(4)(a)**, 33(2); S.S.I. 2011/372, art. 2, Sch.
- F13** Words in s. 42(7) substituted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(4)(b)(i)**, 33(2); S.S.I. 2011/372, art. 2, Sch.
- F14** Words in s. 42(7) substituted (S.) (1.12.2011) by Historic Environment (Amendment) (Scotland) Act 2011 (asp 3), **ss. 3(4)(b)(ii)**, 33(2); S.S.I. 2011/372, art. 2, Sch.

Modifications etc. (not altering text)

- C1** S. 42 savings for effects of 2011 asp 3 s. 3(4) (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(c)**
- C2** S. 42(1) excluded (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 4(12)**
- C3** S. 42(1) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 9 para. 4(12)**
- C4** S. 42(1) savings for effects of 2014 asp 19, Sch. 2 para. 45(a) (1.10.2015) by The Historic Environment Scotland Act 2014 (Saving, Transitional and Consequential Provisions) Order 2015 (S.S.I. 2015/239), arts. 1(1), **11**
- C5** S. 42(3) excluded (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 4(13)**
- C6** S. 42(3) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 9 para. 4(13)**

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 42(1) excluded by 2017 c. 7 Sch. 19 para. 1(12)
- s. 42(3) excluded by 2017 c. 7 Sch. 19 para. 1(13)
- s. 42(7) words inserted by 2016 anaw 4 s. 17(2)

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

- Act restricted by 2017 c. 7 Sch. 19 para. 1(4)

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

- s. 1(5A) inserted by 2016 anaw 4 s. 4(1)
- s. 1(6B)(6C) inserted by 2016 anaw 4 s. 4(2)
- s. 1AA-1AE inserted by 2016 anaw 4 s. 3(1)
- s. 2(5A)(5B) inserted by 2016 anaw 4 s. 5(1)
- s. 2(6A) inserted by 2016 anaw 4 s. 3(2)
- s. 2(8A) inserted by 2016 anaw 4 s. 15(3)
- s. 7(4A) inserted by 2016 anaw 4 s. 10(2)
- s. 9ZA 9ZB and cross-heading inserted by 2016 anaw 4 s. 11(1)
- s. 9ZC-9ZH inserted by 2016 anaw 4 s. 12(1)
- s. 9ZI-9ZL and cross-heading inserted by 2016 anaw 4 s. 13(1)
- s. 9ZM and cross-heading inserted by 2016 anaw 4 s. 14
- s. 28(1A) inserted by 2016 anaw 4 s. 16(3)
- s. 41A and cross-heading inserted by 2016 anaw 4 s. 18(1)
- s. 42(8) inserted by 2016 anaw 4 s. 17(3)
- s. 43(1)-(1B) substituted for s. 43(1) by 2016 c. 22 Sch. 14 para. 10
- s. 50(3A) inserted by 2016 anaw 4 s. 18(2)
- s. 53(2A)(2B) inserted by 2016 anaw 4 s. 20(2)
- s. 55(3A) inserted by 2016 anaw 4 s. 4(5)
- s. 56(1)(ca) inserted by 2016 anaw 4 s. 21(1)
- s. 56(1A) inserted by 2016 anaw 4 s. 21(2)
- s. 56(3) inserted by 2016 anaw 4 s. 21(3)
- s. 60(1A) inserted by 2016 anaw 4 s. 40(1)
- s. 60(3)-(5) inserted by 2016 anaw 4 s. 40(2)
- s. 61(2B) inserted by 2016 anaw 4 s. 21(5)
- s. 61(7A) inserted by 2016 anaw 4 s. 22(3)
- Sch. A1 A2 inserted by 2016 anaw 4 Sch. 1
- Sch. 1 para. 1(3) inserted by 2016 anaw 4 s. 5(2)
- Sch. 1 para. 3(5) inserted by 2016 anaw 4 s. 9(1)
- Sch. 1 para. 3A inserted by 2016 anaw 4 s. 9(2)