



# 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 [<sup>F1</sup>of Historic Environment Scotland (in the case of a place situated in Scotland),] of the [<sup>F2</sup>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 [<sup>F3</sup>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 [<sup>F4</sup>, Historic Environment Scotland][<sup>F5</sup>or the Commission] or a local authority by virtue of this Act; or
- (b) situated in an area of archaeological importance.

<sup>F6</sup>(3) If a person without [<sup>F7</sup>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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[<sup>F8</sup>The reference in this subsection to written consent is to that [<sup>F6</sup>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 [<sup>F9</sup>Historic Environment Scotland,] the Secretary of State [<sup>F10</sup>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 [<sup>F11</sup>Historic Environment Scotland,] the Secretary of State [<sup>F10</sup>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 [<sup>F12</sup>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 [<sup>F13</sup>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 [<sup>F14</sup>, 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.

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**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)**

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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)