



Historic Environment (Wales) Act 2016

2016 anaw 4

PART 2 **E+W**

ANCIENT MONUMENTS ETC

Modifications relating to offences

15 **Control of works affecting scheduled monuments** **E+W**

- (1) Section 2 of the Ancient Monuments and Archaeological Areas Act 1979 (c.46) (control of works affecting scheduled monuments) is amended as follows.
- (2) In subsection (8), after “works within subsection (2)(a) or (c) above” insert “ which have been executed in relation to a scheduled monument situated in England or land in, on or under which there is such a scheduled monument ”.
- (3) After that subsection insert—

“(8A) In any proceedings for an offence under this section in relation to works within subsection (2)(a) or (c) which have been executed in relation to a scheduled monument situated in Wales or land in, on or under which there is such a scheduled monument, it is a defence for the accused to prove that, before executing the works or before causing or permitting their execution (as the case may be), the accused?—

- (a) had taken all reasonable steps to find out whether there was a scheduled monument in the area affected by the works; and
- (b) did not know, and had no reason to believe, that the monument was within the area affected by the works or (as the case may be) that it was a scheduled monument.”

16 **Damaging certain ancient monuments** **E+W**

- (1) Section 28 of the Ancient Monuments and Archaeological Areas Act 1979 (c.46) (offence of damaging certain ancient monuments) is amended as follows.

Changes to legislation: Historic Environment (Wales) Act 2016, Cross Heading: Modifications relating to offences is up to date with all changes known to be in force on or before 19 August 2023. 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

- (2) In subsection (1), after “any protected monument” insert “ situated in England ”.
- (3) After that subsection insert—
 - “(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.”

17 **Restrictions on use of metal detectors** **E+W**

- (1) Section 42 of the Ancient Monuments and Archaeological Areas Act 1979 (c.46) (restrictions on use of metal detectors) is amended as follows.
- (2) In subsection (7), after “an offence under subsection (1) or (3) above” insert “ relating to a protected place situated in England ”.
- (3) After that subsection insert—
 - “(8) In proceedings for an offence under subsection (1) or (3) relating to a protected place situated in Wales, it is a defence for the accused to prove that the accused—
 - (a) had taken all reasonable steps to find out whether the place in which the metal detector was used was a protected place; and
 - (b) did not know, and had no reason to believe, that the place was a protected place.”

Changes to legislation:

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

- Act repealed by [2023 asc 3 Sch. 13 para. 193](#)