



# Historic Environment (Wales) Act 2016

2016 anaw 4

## PART 2

### ANCIENT MONUMENTS ETC

#### *Modifications relating to offences*

#### **15 Control of works affecting scheduled monuments**

- (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**

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

- (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

- (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.”