

# **HISTORIC ENVIRONMENT (WALES) ACT 2023**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2 — Monuments of special historic interest**

##### *Chapter 7 — General*

##### *Section 60 — Restrictions on use of metal detectors*

199. This section deals with the offence of using a “metal detector” (any device designed or adapted for detecting or locating any metal or mineral in the ground) without consent on a protected place. Consent is defined for the purposes of this section as the written consent of the Welsh Ministers. A “protected place” is defined in subsection (1) as the site of any scheduled monument or the site of any monument under the ownership or guardianship of the Welsh Ministers or a local authority.
200. In recent decades, the unauthorised use of metal detectors on protected places, often under the cover of darkness when it is frequently referred to as “nighthawking”, has become increasingly common. The resulting removal of objects of archaeological or historical interest from their buried archaeological context leads to the loss of irreplaceable archaeological and historical evidence.
201. Four separate offences are therefore identified at subsections (2) to (5) which can be committed by a person using a metal detector in a protected place. A person found guilty on summary conviction or a conviction on indictment is liable to a fine, which depends on the nature of the offence. These fines are set out in subsections (8) and (9).
202. Subsections (6) and (7) set out the defences available to a person in the event of any proceedings for an offence under subsections (2) or (4). In any proceedings for an offence under subsection (2) it is a defence for a person to prove that the metal detector was used for a purpose other than detecting or locating objects of archaeological or historical interest. Further, in any proceedings for an offence under subsection (2) or (4) it is a defence for a person to prove that all reasonable steps had been taken to find out whether the place in which the metal detector was used was a protected place and they did not know, and had no reason to believe that the place was a protected place. Information on the location and extent of all scheduled monuments is available on Cof Cymru.