

HISTORIC ENVIRONMENT (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Ancient Monuments Etc

Section 16 – Damaging certain ancient monuments

110. **Section 16** amends section 28 of the 1979 Act (offence of damaging certain ancient monuments) by inserting a new subsection (1A), which modifies the offence of destroying or damaging a protected monument. A “protected monument” is a monument which is:
- i. a scheduled monument, or
 - ii. a monument under the ownership or guardianship of the Welsh Ministers or a local authority by virtue of the 1979 Act.
111. Under section 28(1), a person who without lawful excuse destroys or damages any protected monument, knowing that it is protected and intending to destroy or damage the monument, or being reckless as to whether the monument would be destroyed or damaged, is guilty of an offence. No offence will be committed if the person did not know that the monument was a protected monument.
112. **Section 16** disapplies the section 28(1) offence in relation to Wales and replaces it with the new offence in section 28(1A). Under the new offence, a person who destroys or damages a protected monument without lawful excuse is guilty of an offence if the person knew or ought reasonably to have known that it was a protected monument and intended to damage the monument or was reckless as to whether it would be damaged or destroyed.