



# 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.
- (3) If a person without [<sup>F6</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.

*Status: Point in time view as at 27/02/2015.*

**Changes to legislation:** Ancient Monuments and Archaeological Areas Act 1979, Part III is up to date with all changes known to be in force on or before 09 April 2024. 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)

[<sup>F7</sup>The reference in this subsection to written consent is to that [<sup>F8</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>prove][<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>prove that he had taken all reasonable precautions][<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 did not believe that it was.][<sup>F14</sup>; and

- (b) he did not know and had no reason to believe that that place was a protected place]

#### Textual Amendments

- F1** Words in s. 42(1) inserted (S.) (27.2.2015 for specified purposes) 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.
- 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) 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.
- F5** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 60(3)(6)**
- F6** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 60(4)(6)**
- F7** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 60(4)(6)**
- F8** Words in s. 42(3) inserted (S.) (27.2.2015 for specified purposes) 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.
- F9** Words in s. 42(4) inserted (S.) (27.2.2015 for specified purposes) 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.
- F10** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 60(5)(6)**

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- F11** Words in s. 42(5)(a) inserted (S.) (27.2.2015 for specified purposes) 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.
- 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.

#### **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(3) excluded (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 4(13)**
- C5** S. 42(3) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 9 para. 4(13)**

### *Powers of entry*

#### **43 Power of entry for survey and valuation.**

- (1) Any person authorised under this section may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that or any other land under this Act or in connection with any claim for compensation under this Act in respect of any such acquisition or for any damage to that or any other land.
- (2) A person is authorised under this section if he is an officer of the Valuation Office of the Inland Revenue Department or a person duly authorised in writing by the Secretary of State [<sup>F15</sup>, Historic Environment Scotland] or other authority proposing to make the acquisition which is the occasion of the survey or valuation or (as the case may be) from whom in accordance with this Act compensation in respect of the damage is recoverable.
- (3) Subject to section 44(9) of this Act, the power to survey land conferred by this section shall be construed as including power to search and bore for the purposes of ascertaining the nature of the subsoil or the presence of minerals therein.

#### **Textual Amendments**

- F15** Words in s. 43(2) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 46** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

#### **44 Supplementary provisions with respect to powers of entry.**

- (1) A person may not in the exercise of any power of entry under this Act, other than that conferred by section 43, enter any building or part of a building occupied as a dwelling house without the consent of the occupier.

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- (2) Subject to the following provisions of this subsection, a person may not in the exercise of any power of entry under this Act demand admission as of right to any land which is occupied unless prior notice of the intended entry has been given to the occupier—
- (a) where the purpose of the entry is to carry out any works on the land (other than excavations in exercise of the power under section 26 or 38 of this Act), not less than fourteen days before the day on which admission is demanded; or
  - (b) in any other case, not less than twenty-four hours before admission is demanded.

This subsection does not apply in relation to the power of entry under section 5 of this Act.

- (3) A person seeking to enter any land in exercise of any power of entry under this Act shall, if so required by or on behalf of the owner or occupier thereof, produce evidence of his authority before entering.
- (4) Any power of entry under this Act shall be construed as including power for any person entering any land in exercise of the power of entry to take with him any assistance or equipment reasonably required for the purpose to which his entry relates and to do there anything reasonably necessary for carrying out that purpose.
- (5) Without prejudice to subsection (4) above, where a person enters any land in exercise of any power of entry under this Act for the purpose of carrying out any archaeological investigation or examination of the land, he may take and remove such samples of any description as appear to him to be reasonably required for the purpose of archaeological analysis.
- (6) Subject to subsection (7) below, where any works are being carried out on any land in relation to which any power of entry under this Act is exercisable, a person acting in the exercise of that power shall comply with any reasonable requirements or conditions imposed by the person by whom the works are being carried out for the purpose of preventing interference with or delay to the works.
- (7) Any requirements or conditions imposed by a person by whom any works are being carried out shall not be regarded as reasonable for the purposes of subsection (6) above if compliance therewith would in effect frustrate the exercise of the power of entry or the purpose of the entry; and that subsection does not apply where the works in question are being carried out in contravention of section 2(1) or (6) or 35 of this Act.
- (8) Any person who intentionally obstructs a person acting in the exercise of any power of entry under this Act 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>F16</sup>level 3 on the standard scale]
- (9) Where under section 43 of this Act a person proposes to carry out any works authorised by virtue of subsection (3) of that section—
- (a) he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (2)(a) above; and
  - (b) if the land in question is held by statutory undertakers, and those undertakers object to the proposed works on the grounds that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the Secretary of State.

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### Textual Amendments

**F16** 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](#))

### *Financial provisions*

#### **45 Expenditure on archaeological investigation.**

(1) The Secretary of State may undertake, or assist in, or defray or contribute towards the cost of, an archaeological investigation of any land [<sup>F17</sup>](other than land in England)] which he considers may contain an ancient monument or anything else of archaeological or historical interest.

[<sup>F18</sup>(1A) The Commission may undertake, or assist in, or defray or contribute towards the cost of, an archaeological investigation of any land in England which they consider may contain an ancient monument or anything else of archaeological or historical interest; and the reference to an ancient monument in this subsection shall be construed as if the reference in section 61(12)( b ) of this Act to the Secretary of State were to the Commission. ]

(2) Any local authority may undertake, or assist in, or defray or contribute towards the cost of, an archaeological investigation of any land in or in the vicinity of their area, being land which they consider may contain an ancient monument or anything else of archaeological or historical interest.

(3) The Secretary of State [<sup>F19</sup>or the Commission] or any local authority may publish the results of any archaeological investigation undertaken, assisted, or wholly or partly financed by them under this section in such manner and form as they think fit.

(4) Without prejudice to the application, by virtue of section 53 of this Act, of any other provision of this Act to land which is not within Great Britain, the powers conferred by this section shall be exercisable in relation to any such land which forms part of the sea bed within the seaward limits of United Kingdom territorial waters adjacent to the coast of Great Britain [<sup>F20</sup>(or, as regards the powers mentioned in subsection (1A) above, England)].

### Textual Amendments

**F17** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 61\(2\)](#)

**F18** S. 45(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 61\(3\)](#)

**F19** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 61\(4\)](#)

**F20** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\), s. 41, Sch. 4 para. 61\(5\)](#)

### Modifications etc. (not altering text)

**C6** S. 45(2)(3) extended (E.W.) (19.9.1995) by [1995 c. 25, ss. 70, 125\(2\), Sch. 9 para.10\(3\)](#) (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#))

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**[<sup>F21</sup>45A Development and understanding of matters of historic, etc. interest: grants and loans**

- (1) The Scottish Ministers may make grants or loans for the purpose of defraying in whole or in part any expenditure incurred, or to be incurred—
  - (a) in or in connection with;
  - (b) with a view to the promotion of,
 

the development or understanding of matters of historic, architectural, traditional, artistic or archaeological interest.
- (2) A grant or loan under this section may be made subject to such conditions (including conditions as to repayment) as the Scottish Ministers consider appropriate.
- (3) Without prejudice to any powers of the Scottish Ministers under any enactment (including this Act), the total amount of grants and loans which may be made under this section must not exceed £100,000 in any one year period.]

**Textual Amendments**

**F21** S. 45A inserted (S.) (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), [ss. 12, 33\(2\)](#); [S.S.I. 2011/174](#), [art. 2](#), [Sch.](#)

**46 Compensation for damage caused by exercise of certain powers under this Act.**

- (1) Subject to subsection (2) below, where, in the exercise in relation to any land of any power to which this section applies, any damage has been caused to that land or to any chattels on that land, any person interested in that land or those chattels may recover compensation in respect of that damage from [<sup>F22</sup>Historic Environment Scotland,] the Secretary of State [<sup>F23</sup>or the Commission] or other authority by or on whose behalf the power was exercised.
- (2) Where any such damage is caused in the exercise of any such power by or on behalf of any person for the time being holding appointment as the investigating authority for an area of archaeological importance under section 34 of this Act, compensation shall be recoverable in accordance with this section from the [<sup>F24</sup>Commission (if the area in question is situated in England) or from the Secretary of State (in any other case).]
- (3) This section applies to any power to enter, or to do anything, on any land under any of the following sections of this Act, that is to say, sections 6, [<sup>F25</sup>6A] 26, 38, 39, 40 and 43.
- (4) References in subsection (1) above to chattels shall be construed in relation to Scotland as references to moveables.

**Textual Amendments**

**F22** Words in [s. 46\(1\)](#) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), [s. 31\(2\)](#), [sch. 2 para. 47](#) (with [ss. 29, 30](#)); [S.S.I. 2015/31](#), [art. 2](#), [sch.](#)

**F23** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), [s. 41](#), [Sch. 4 para. 62\(2\)](#)

**F24** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), [s. 41](#), [Sch. 4 para. 62\(3\)\(5\)](#)

**F25** Word inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), [s. 41](#), [Sch. 4 para. 62\(4\)](#)

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#### 47 General provisions with respect to claims for compensation under this Act.

- (1) Any claim for compensation under this Act shall be made within the time and in the manner prescribed.
- (2) Any question of disputed compensation under this Act shall be referred to and determined by the [<sup>F26</sup>Upper Tribunal or] (in the case of any land situated in Scotland) by the Lands Tribunal for Scotland.
- (3) In relation to the determination of any such question, the provisions of [<sup>F27</sup>section] 4 of the <sup>M1</sup>Land Compensation Act 1961 or (as the case may be) of Sections 9 and 11 of the <sup>M2</sup>Land Compensation (Scotland) Act 1963 shall apply, but the references in section 4 of the Act of 1961 and section 11 of the Act of 1963 to the acquiring authority shall be construed as references to the authority by whom the compensation claimed is payable under this Act.

##### Textual Amendments

- F26** Words in s. 47(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 129(a)** (with Sch. 5)
- F27** Word in s. 47(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 129(b)** (with Sch. 5)

##### Marginal Citations

- M1** 1961 c 33.
- M2** 1963 c 51.

#### 48 Recovery of grants for expenditure in conservation areas and on historic buildings.

<sup>F28</sup>(1) .....

<sup>X1</sup>(2) After section 4 of the <sup>M3</sup>Historic Buildings and Ancient Monuments Act 1953 (grants for preservation of historic buildings, their contents and adjoining land) there shall be inserted the following section —

##### “4A Recovery of grants under section 4.

- (1) This section applies to any grant under section 4 of this Act made on terms that it shall be recoverable under this section ; but any such grant shall only be regarded for the purposes of this section as so made if before or on making the grant the Secretary of State gives to the grantee notice in writing —
  - (a) summarising the effect of this section ; and
  - (b) specifying the period during which the grant is to be recoverable in accordance with subsection (4) below in the case of a grant made for the purpose there mentioned.
- (2) The period specified under subsection (1)(b) above in the case of any grant shall be a period beginning with the day on which the grant is made and ending not more than ten years after that day.

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- (3) If any condition subject to which a grant to which this section applies was made is contravened or not complied with, the Secretary of State may recover the amount of the grant or such part of it as he thinks fit from the grantee.
- (4) If, during the period specified under subsection (1)(b) above in the case of a grant to which this section applies made to any person for the purpose of defraying in whole or in part any expenditure on the repair, maintenance or upkeep of any property, the grantee disposes in any manner mentioned in subsection (5) below of the interest, or any part thereof, held by him in the property on the day on which the grant is made (referred to below in this section as “the relevant interest”), the Secretary of State may recover the amount of the grant or such part of it as he thinks fit from the grantee.
- (5) Subsection (4) above only applies where the grantee disposes of the relevant interest or any part of it by way of sale or exchange or lease for a term of not less than twenty-one years.
- (6) If a person becomes entitled by way of gift from the grantee, whether directly or indirectly (but otherwise than by will) to a part of the relevant interest, a disposal by the donee in any manner mentioned in subsection (5) above of the interest so acquired by him in the property, or any part of that interest, shall be treated for the purposes of subsection (4) above as a disposal by the grantee of a part of the relevant interest.
- (7) If a person becomes entitled by way of any such gift to the whole of the relevant interest subsection (4) above shall have effect (except for the purpose of determining the relevant interest) as if the donee were the grantee.
- (8) Nothing in subsection (3) or (4) above shall be taken as conferring on the Secretary of State a right to recover (by virtue of a breach of more than one condition or disposals of several parts of an interest in property) amounts in the aggregate exceeding the amount of the grant.”

#### **Editorial Information**

**X1** The text of s. 48(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Textual Amendments**

**F28** S. 48(1) repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt.I** (with s. 5, **Sch. 3**)

#### **Marginal Citations**

**M3** 1953 c.49.

## **49 Grants to the Architectural Heritage Fund.**

- (1) The Secretary of State may make grants to the [<sup>F29</sup>Architectural Heritage Fund].
- [<sup>F30</sup>(1A) The Commission may make grants to the Architectural Heritage Fund for the purpose of enabling it to perform its functions in, or in relation to, England.]
- (2) A grant under this section may be made subject to such conditions as the Secretary of State [<sup>F31</sup>or the Commission (as the case may be)] may think fit to impose.



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[<sup>F32</sup>(3) In this section “the Architectural Heritage Fund” means the institution registered under that name under [<sup>F33</sup>the Charities Act 1993][<sup>F33</sup>the Charities Act 2011]]

#### Textual Amendments

- F29** Words substituted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 63\(2\)](#)
- F30** S. 49(1A) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 63\(3\)](#)
- F31** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 63\(4\)](#)
- F32** S. 49(3) inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 63\(5\)](#)
- F33** Words in s. 49(3) substituted (E.W.) (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 36](#) (with s. 20(2), [Sch. 8](#))

#### *Application to special cases*

### **50 Application to Crown land.**

- (1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—
- a monument which for the time being is Crown land may be included in the Schedule; and
  - any restrictions or powers imposed or conferred by any of the provisions of this Act shall apply and be exercisable in relation to Crown land and in relation to anything done on Crown land otherwise than by or on behalf of the Crown, but not so as to affect any interest of the Crown therein.

[<sup>F34</sup>(1A) For the purposes of subsection (1)(b), anything done by Historic Environment Scotland on Crown land, in relation to which it has functions by virtue of a delegation by the Scottish Ministers under section 3 of the Historic Environment Scotland Act 2014 (asp 19), is not to be treated as done by or on behalf of the Crown.]

- (2) Except with the consent of the appropriate authority—
- no power under this Act to enter, or to do anything, on any land shall be exercisable in relation to land which for the time being is Crown land; and
  - no interest in land which for the time being is Crown land shall be acquired compulsorily under Part I of this Act.
- (3) In relation to any operations proposed to be carried out on Crown land otherwise than by or on behalf of the Crown, an operations notice served under section 35 of this Act shall not be effective for the purposes of that section unless it is accompanied by a certificate from the appropriate authority in the prescribed form consenting to the exercise in relation to that land in connection with those operations of the powers conferred by sections 38 and 40 of this Act.
- (4) In this section “Crown land” means land in which there is a Crown interest or a Duchy interest; “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a Government department, or held in trust for Her Majesty for the purposes of a Government department, and includes any estate or interest held in right of the Prince and Steward of Scotland; “Duchy interest” means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall; and for the purposes of this section “the appropriate authority”, in relation to any land—

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- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the Government department having the management of that land;
- (b) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;
- (c) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
- (d) in the case of land belonging to a Government department or held in trust for Her Majesty for the purposes of a Government department, means that department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

In this subsection “Government department” includes any Minister of the Crown.

#### Textual Amendments

**F34** S. 50(1A) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014](#) (asp 19), s. 31(2), [sch. 2 para. 48](#) (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

#### Modifications etc. (not altering text)

- C7** S. 50 modified (17.7.1992) by [S.I. 1992/1732](#), [arts. 1](#), 3(1).  
S. 50 extended (17.7.1992) by [S.I. 1992/1732](#), [arts. 1](#), 3(1)(a).
- C8** S. 50(4)(a) modified (17.7.1992) by [S.I. 1992/1732](#), [arts. 1](#), 3(2).

## 51 Ecclesiastical Property.

- (1) Without prejudice to the provisions of the <sup>M4</sup>Acquisition of Land (Authorisation Procedure) Act 1946 with respect to notices served under that Act, where under any of the provisions of this Act a notice is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the [<sup>F35</sup>Church Commissioners][<sup>F35</sup>Diocesan Board of Finance for the diocese in which the land is situated].
- (2) [<sup>F36</sup>Where the fee simple of any ecclesiastical property is in abeyance, the fee simple][<sup>F36</sup>Where any ecclesiastical property is vested in the incumbent of a benefice which is vacant it] shall for the purposes of this Act be treated as being vested in the [<sup>F35</sup>Church Commissioners][<sup>F35</sup>Diocesan Board of Finance for the diocese in which the land is situated].
- (3) Any sum which under section 7, 9 or 46 of this Act is payable in relation to land which is ecclesiastical property and apart from this subsection would be payable to an incumbent, shall be paid to the [<sup>F35</sup>Church Commissioners][<sup>F35</sup>Diocesan Board of Finance for the diocese in which the land is situated], to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising, or disposing of the proceeds of, such a sale.
- (4) Where any sum is recoverable under section 8 of this Act in respect of land which is ecclesiastical property the [<sup>F35</sup>Church Commissioners][<sup>F35</sup>Diocesan Board of Finance

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for the diocese in which the land is situated] may apply any money or securities held by [<sup>F37</sup>them][<sup>F37</sup>it] in the payment of that sum.

- (5) In this section “ecclesiastical property” means land belonging to an ecclesiastical benefice of the Church of England, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese of the Church of England or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

#### Textual Amendments

- F35** Words in s. 51 substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 20\(a\)](#); 2006 No. 2, Instrument made by Archbishops
- F36** Words in s. 51(2) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 20\(b\)](#); 2006 No. 2, Instrument made by Archbishops
- F37** Word in s. 51(4) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), s. 16(2), [Sch. 5 para. 20\(a\)](#); 2006 No. 2, Instrument made by Archbishops

#### Marginal Citations

- M4** 1946 c. 49.

## 52 Application to the Isles of Scilly.

The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide for the application to those Isles of the provisions of this Act—

- (a) as if those Isles were a district and the Council of the Isles were the council of that district; and
- (b) in other respects subject to such modifications as may be specified in the order.

## [<sup>F38</sup>52A The Broads.

Parts I and II and section 45(2) and (3) of this Act shall apply, in relation to the Broads (as defined by the Norfolk and Suffolk Broads Act 1988), as if the Broads Authority were a local authority.]

#### Textual Amendments

- F38** S. 52A inserted (E.W.) by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 2(5)(6), 23(2), 27(2), [Sch. 3 para. 30\(1\)](#), [Sch. 7](#)

## 53 Monuments in territorial waters.

- (1) A monument situated in, on or under the sea bed within the seaward limits of United Kingdom territorial waters adjacent to the coast of Great Britain (referred to below in this section as a monument in territorial waters) may be included in the Schedule under section 1(3) of this Act, and the remaining provisions of this Act shall extend accordingly to any such monument which is a scheduled monument (but not otherwise).
- (2) The entry in the Schedule relating to any monument in territorial waters shall describe the monument as lying off the coast of England, or of Scotland, or of Wales; and any such monument shall be treated for the purposes of this Act as situated in the country

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specified for the purposes of this subsection in the entry relating to the monument in the Schedule.

- (3) In relation to any monument in territorial waters which is under the ownership or guardianship of the Secretary of State [<sup>F39</sup>or the Commission] or any local authority by virtue of this Act, references in this Act to land associated with the monument (or to associated land) include references to any part of the sea bed occupied by the Secretary of State [<sup>F39</sup>or by the Commission] or by a local authority for any such purpose relating to the monument as is mentioned in section 15(1) of this Act.
- (4) Without prejudice to any jurisdiction exercisable apart from this subsection, proceedings for any offence under this Act committed in United Kingdom territorial waters adjacent to the coast of Great Britain may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in Great Britain.
- (5) It is hereby declared that, notwithstanding that by virtue of this section this Act may affect individuals or bodies corporate outside the United Kingdom, it applies to any individual whether or not he is a British subject, and to any body corporate whether or not incorporated under the law of any part of the United Kingdom.
- (6) A constable shall on any monument in territorial waters have all the powers, protection and privileges which he has in the area for which he acts as constable.
- (7) References in this section to the sea bed do not include the seashore or any other land which, though covered (intermittently or permanently) by the sea, is within Great Britain.

#### Textual Amendments

**F39** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 64](#)

### *Supplemental*

#### 54 Treatment and preservation of finds. **E+W**

- (1) Where a person enters any land in exercise of any power of entry under this Act for any of the following purposes, that is to say—
  - (a) to carry out any excavations in the land or any operations affecting any ancient monument situated in, on or under the land;
  - (b) to observe any operations on the land in exercise of the power under section 6(3)(a) or (4)(b) [<sup>F40</sup>or 6A(2)(a)] or 38(1)(b) of this Act; or
  - (c) to carry out any archaeological examination of the land;
 he may take temporary custody of any object of archaeological or historical interest discovered during the course of those excavations or operations or (as the case may be) during the course of that examination, and remove it from its site for the purpose of examining, testing, treating, recording or preserving it.
- (2) The Secretary of State or other authority by or on whose behalf the power of entry was exercised may not retain the object without the consent of the owner beyond such period as may be reasonably required for the purpose of examining and recording it and carrying out any test or treatment which appears to the Secretary of State or to that other authority to be desirable for the purpose of archaeological investigation or analysis or with a view to restoring or preserving the object.

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- (3) Nothing in this section shall affect any right of the Crown [<sup>F41</sup>under the Treasure Act 1996].

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F40** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 65](#)  
**F41** Words in s. 54(3) substituted (E.W.) (24.9.1997 with effect in relation to any treasure found after the commencement of [1996 c. 24, s. 4](#)) by [1996 c. 24, s. 14\(2\)\(4\)](#); S.I. 1997/1977, [art.2](#)

## 54 Treatment and preservation of finds. **S**

- (1) Where a person enters any land in exercise of any power of entry under this Act for any of the following purposes, that is to say—
- to carry out any excavations in the land or any operations affecting any ancient monument situated in, on or under the land;
  - to observe any operations on the land in exercise of the power under section 6(3)(a) or (4)(b) [<sup>F79</sup>or 6A(2)(a)] or 38(1)(b) of this Act; or
  - to carry out any archaeological examination of the land;
- he may take temporary custody of any object of archaeological or historical interest discovered during the course of those excavations or operations or (as the case may be) during the course of that examination, and remove it from its site for the purpose of examining, testing, treating, recording or preserving it.
- (2) The Secretary of State [<sup>F80</sup>, Historic Environment Scotland] or other authority by or on whose behalf the power of entry was exercised may not retain the object without the consent of the owner beyond such period as may be reasonably required for the purpose of examining and recording it and carrying out any test or treatment which appears to the Secretary of State [<sup>F80</sup>, Historic Environment Scotland] or to that other authority to be desirable for the purpose of archaeological investigation or analysis or with a view to restoring or preserving the object.
- (3) Nothing in this section shall affect any right of the Crown in relation to treasure trove.

#### Extent Information

- E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F79** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 65](#)  
**F80** Words in s. 54(2) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 2 para. 49](#) (with ss. 29, 30); S.S.I. 2015/31, [art. 2, sch.](#)

## 55 Proceedings for questioning validity of certain orders, etc.

- (1) If any person—

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- (a) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that it is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to it; or
  - (b) is aggrieved by any action on the part of the Secretary of State <sup>[F42]</sup>or Historic Environment Scotland] to which this section applies and desires to question the validity of that action, on the grounds that it is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to it;
- he may, within six weeks from the relevant date, make an application under this section to the High Court or (in Scotland) to the Court of Session.
- (2) This section applies to any designation order and to any order under section 33 (4) of this Act varying or revoking a designation order.
- (3) This section applies to action on the part of the Secretary of State <sup>[F43]</sup>or Historic Environment Scotland] of <sup>[F44]</sup>either<sup>[F44]</sup>any] of the following descriptions, that is to say—
- (a) <sup>[F45]</sup>any decision of the Scottish Ministers on an application for scheduled monument consent referred to them under section 3B,
  - (aa) any decision of the Scottish Ministers on an appeal under this Act,]
  - (b) <sup>[F46]</sup>the giving by the Secretary of State of any direction under section 4<sup>[F46]</sup>the making by Historic Environment Scotland of any order under section 4 or by the Scottish Ministers of any order under section 4A] of this Act modifying or revoking a scheduled monument consent.
- (4) In subsection (1) above “the relevant date” means—
- (a) in relation to an order, the date on which notice of the making of the order is published (or, as the case may be, first published) in accordance with Schedule 2 to this Act; and
  - (b) in relation to any action on the part of the Secretary of State <sup>[F47]</sup>or Historic Environment Scotland] , the date on which that action is taken.
- (5) On any application under this section the High Court or (in Scotland) the Court of Session—
- (a) may by interim order suspend the operation of the order or action, the validity whereof is questioned by the application, until the final determination of the proceedings;
  - (b) if satisfied that the order or action in question is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action in whole or in part.
- (6) In this section “the relevant requirements” means—
- (a) in relation to any order to which this section applies, any requirements of this Act or of any regulations made under this Act which are applicable to that order; and
  - (b) in relation to any action to which this section applies, any requirements of this Act or of the <sup>M5</sup>Tribunals and Inquiries Act <sup>[F48]</sup>1992] or of any regulations or rules made under this Act or under that Act which are applicable to that action.
- (7) Except as provided by this section, the validity of any order or action to which this section applies shall not be questioned in any legal proceedings whatsoever; but

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nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State [<sup>F49</sup>or Historic Environment Scotland] to take a decision on an application for scheduled monument consent.

#### Textual Amendments

- F42** Words in s. 55(1)(b) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 50(a)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F43** Words in s. 55(3) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 50(b)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F44** Word in s. 55(3) substituted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 50(b)(ii)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F45** S. 55(3)(a)(aa) substituted for s. 55(3)(a) (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 50(b)(iii)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F46** Words in s. 55(3)(b) substituted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 50(b)(iv)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F47** Words in s. 55(4)(b) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 50(c)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F48** Words in s. 55(6)(b) substituted (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(1), 19(2), **Sch. 3 para.12**.
- F49** Words in s. 55(7) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 50(d)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.

#### Marginal Citations

- M5** 1971 c. 62.

## 56 Service of documents.

- (1) Any notice or other document required or authorised to be served under this Act may be served either—
- by delivering it to the person on whom it is to be served; or
  - by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address; or
  - by sending it in a pre-paid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address; or
  - in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a pre-paid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.
- (2) Where any such notice or document is required or authorised to be served on any person as being the owner or occupier of any monument or other land—
- it may be addressed to the “owner” or (as the case may require) to the “occupier” of that monument or land (describing it) without further name or description; and

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- (b) if the usual or last known place of abode of the person in question cannot be found, it may be served by being affixed conspicuously to the monument or to some object on the site of the monument or (as the case may be) on the land.

## 57 Power to require information as to interests in land.

- (1) For the purpose of enabling the Secretary of State [<sup>F50</sup>or Historic Environment Scotland][<sup>F51</sup>or the Commission] or a local authority to exercise any function under this Act, the Secretary of State [<sup>F50</sup>or Historic Environment Scotland][<sup>F51</sup>or the Commission] or the local authority may require the occupier of any land and any person who, either directly or indirectly, receives rent in respect of any land to state in writing the nature of his interest therein, and the name and address of any other person known to him as having an interest therein, whether as a freeholder, owner [<sup>F52</sup>of the dominium utile,] mortgagee, lessee, or otherwise.
- (2) Any person who, having been required under this section to give any information, fails without reasonable excuse to give that information, 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>F53</sup>level 3 on the standard scale].
- (3) Any person who, having been so required to give any information, knowingly makes any mis-statement in respect of it, shall be guilty of an offence and liable—
- (a) on summary conviction or, in Scotland, on conviction before a court of summary jurisdiction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment to a fine.

### Textual Amendments

- F50** Words in s. 57(1) inserted (S.) (27.2.2015 for specified purposes) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 2 para. 51** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.
- F51** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 66**
- F52** Words in s. 57(1) repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **Sch. 12 para. 40(4)**, **13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F53** 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**)

## 58 Offences by corporations.

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.
- (2) In subsection (1) above the expression “director”, in relation to any body corporate established by or under an enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.



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## 59 Prosecution of offences: Scotland.

Notwithstanding anything in [<sup>F54</sup>section 136 of the Criminal Procedure (Scotland) Act 1995], summary proceedings in Scotland for an offence under this Act may be commenced at any time within one year from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings came to his knowledge; and a certificate purporting to be signed by the prosecutor stating that date shall be conclusive.

### Textual Amendments

**F54** Words in s. 59 substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 24(2)**

## 60 Regulations and orders.

[<sup>F55</sup>(A1) Any power conferred by this Act to make regulations or orders includes power to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Scottish Ministers consider necessary or expedient.]

- (1) Any order or regulations made under this Act may make different provision for different cases to which the order or (as the case may be) the regulations apply.
- (2) Any power of the Secretary of State to make regulations under this Act, and the power to make orders under sections 3, 37, 52, 61 and 65 of this Act shall be exercisable by statutory instrument; and any statutory instrument containing any such regulations or order, other than one containing regulations under section 19 of this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Textual Amendments

**F55** S. 60(A1) inserted (S.) (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), ss. 13, 33(2); S.S.I. 2011/174, art. 2, Sch.

## 61 Interpretation. **E+W**

<sup>F56</sup>(1) In this Act—

“ancient monument” has the meaning given by subsection (12) below;

“area of archaeological importance” means an area designated as such under section 33 of this Act;

<sup>F57</sup>[“the Commission” means the Historic Buildings and Monuments Commission for England;]

“designation order” means an order under that section;

[<sup>F58</sup> “ development consent ” means development consent under the Planning Act 2008; ]

“enactment” includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, byelaw or scheme made under an Act of Parliament;

“flooding operations” means covering land with water or any other liquid or partially liquid substance;

“functions” includes powers and duties;

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“guardianship deed” has the meaning given by section 12(6) of this Act;  
“land” means—

- (a) in England and Wales, any corporeal hereditament;
- (b) in Scotland, any heritable property;

including a building or a monument and, in relation to any acquisition of land, includes any interest in or right over land;

“local authority” means—

- (a) in England <sup>F59</sup> . . . , the council of a county or district, . . . <sup>F60</sup> the council of a London borough, and the Common Council of the City of London;
- <sup>F61</sup>[(aa) in Wales, the council of a county or county borough;]
- (b) in Scotland, the planning authority within the meaning of Part IX of the <sup>M6</sup>Local Government (Scotland) Act 1973;

“monument” has the meaning given by subsection (7) below;

“owner”, in relation to any land in England and Wales means (except for the purposes of paragraph 2(1) of Schedule 1 to this Act and any regulations made for the purposes of that paragraph) a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let;

“possession” includes receipt of rents and profits or the right to receive rents and profits (if any);

“prescribed” means prescribed by regulations made by the Secretary of State;

“the Schedule” has the meaning given by section 1(1) of this Act;

“scheduled monument” has the meaning given by section 1(11) of this Act and references to “scheduled monument consent” shall be construed in accordance with section 2(3) and 3(5) of this Act;

<sup>F62</sup> . . .

“tipping operations” means tipping soil or spoil or depositing building or other materials or matter (including waste materials or refuse) on any land; and

<sup>F63</sup>“universal postal service provider” means a universal service provider within the meaning of <sup>F64</sup>Part 3 of the Postal Services Act 2011]; and references to the provision of a universal postal service shall be construed in accordance with <sup>F65</sup>that Part].

“works” includes operations of any description and, in particular (but without prejudice to the generality of the preceding provision) flooding or tipping operations and any operations undertaken for purposes of agriculture (within the meaning of <sup>F66</sup>the Town and Country Planning Act 1990] or, as regards Scotland, <sup>F67</sup>the Town and Country Planning (Scotland) Act 1997] or forestry (including afforestation).

(2) In this Act “statutory undertakers” means—

- (a) persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . <sup>F68</sup> . . . <sup>F69</sup><sup>F70</sup> or hydraulic power];
- (b) . . . <sup>F71</sup>the Civil Aviation Authority, the <sup>F72</sup> . . . , <sup>F73</sup>a universal postal service provider in connection with the provision of a universal postal service] and any other authority, body or undertakers which by virtue of any enactment are

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to be treated as statutory undertakers for any of the purposes of [F74the Town and Country Planning Act 1990] or of [F67the Town and Country Planning (Scotland) Act 1997]; and

- (c) any other authority, body or undertakers specified in an order made by the Secretary of State under this paragraph.

[F75(2A) The undertaking of a universal postal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Act; and references in this Act to his undertaking shall be construed accordingly.]

(3) For the purposes of sections 14(1) and 21(2) of this Act and paragraph 6(1)(b) and (2) (b) of Schedule 3 to this Act a person shall be taken to be immediately affected by the operation of a guardianship deed relating to any land if he is bound by that deed and is in possession or occupation of the land.

(4) For the purposes of this Act “archaeological investigation” means any investigation of any land, objects or other material for the purpose of obtaining and recording any information of archaeological or historical interest and (without prejudice to the generality of the preceding provision) includes in the case of an archaeological investigation of any land—

- (a) any investigation for the purpose of discovering and revealing and (where appropriate) recovering and removing any objects or other material of archaeological or historical interest situated in, on or under the land; and
- (b) examining, testing, treating, recording and preserving any such objects or material discovered during the course of any excavations or inspections carried out for the purposes of any such investigation.

(5) For the purposes of this Act, an archaeological examination of any land means any examination or inspection of the land (including any buildings or other structures thereon) for the purpose of obtaining and recording any information of archaeological or historical interest.

(6) In this Act references to land associated with any monument (or to associated land) shall be construed in accordance with section 15(6) of this Act.

(7) “Monument” means (subject to subsection (8) below)—

- (a) any building, structure or work, whether above or below the surface of the land, and any cave or excavation;
- (b) any site comprising the remains of any such building, structure or work or of any cave or excavation; and
- (c) any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part thereof which neither constitutes nor forms part of any work which is a monument within paragraph (a) above;

and any machinery attached to a monument shall be regarded as part of the monument if it could not be detached without being dismantled.

(8) Subsection (7)(a) above does not apply to any ecclesiastical building for the time being used for ecclesiastical purposes, and subsection (7)(c) above does not apply—

- (a) to a site comprising any object or its remains unless the situation of that object or its remains in that particular site is a matter of public interest;
- (b) to a site comprising, or comprising the remains of, any vessel which is protected by an order under section 1 of the M7Protection of Wrecks Act 1973 designating an area round the site as a restricted area.

*Status: Point in time view as at 27/02/2015.*

**Changes to legislation:** Ancient Monuments and Archaeological Areas Act 1979, Part III is up to date with all changes known to be in force on or before 09 April 2024. 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)

- (9) For the purposes of this Act, the site of a monument includes not only the land in or on which it is situated but also any land comprising or adjoining it which appears to the Secretary of State [F76or the Commission] or a local authority, in the exercise in relation to that monument of any of their functions under this Act, to be essential for the monument's support and preservation.
- (10) References in this Act to a monument include references—
- (a) to the site of the monument in question; and
  - (b) to a group of monuments or any part of a monument or group of monuments.
- (11) References in this Act to the site of a monument—
- (a) are references to the monument itself where it consists of a site; and
  - (b) in any other case include references to the monument itself.
- (12) “Ancient monument” means—
- (a) any scheduled monument; and
  - (b) any other monument which in the opinion of the Secretary of State is of public interest by reason of the historic, architectural, traditional, artistic or archaeological interest attaching to it.
- (13) In this section “remains” includes any trace or sign of the previous existence of the thing in question.

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

- F56** Words in s. 61(1) inserted (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 6(3)**, 33(2); S.S.I. 2011/174, art. 2, Sch.; S.S.I. 2011/372, art. 2, Sch.
- F57** Definition inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 67(2)**
- F58** Words in s. 61(1) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 20** (with s. 226); S.I. 2010/101, art. 2 (with art. 6)
- F59** Words in s. 61(1)(a) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 56(3), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F60** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F61** S. 61(1)(aa) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 56(3)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F62** The definition of "statutory maximum" in s. 61(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group 2
- F63** S. 61(1): definition of “universal postal provider” inserted (26.3.01) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 45(2)**
- F64** Words in s. 61(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 103(a)**; S.I. 2011/2329, art. 3
- F65** Words in s. 61(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 103(b)**; S.I. 2011/2329, art. 3
- F66** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 43(2)**
- F67** Words in s. 61(1)(2)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 29(2)**
- F68** Word repealed by [Electricity Act 1989 \(c.29, SIF 44:1\)](#), s. 112(3)(4), Sch. 17 para. 35, **Sch. 18**

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- F69** Word repealed by Gas Act 1986 (c.44, SIF 44:2), s. 67(3)(4), Sch. 8 para. 17, **Sch. 9 Pt. I**
- F70** Words in s. 61(2)(a) substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 146(6), 160(1)(2)(4), 189(4)-(10), 190, 193(1), Sch. 25 para. 58, Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F71** Words repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. I**
- F72** Words in s. 61(2)(b) repealed (31.10.1994) by virtue of 1994 c. 21, s. 67, Sch. 9 para. 22, **Sch. 11 Pt. II**; S.I. 1994/2553, **art. 2**
- F73** Words in s. 61(2)(b) substituted (26.3.01) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 45(3)**
- F74** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 43(2)**
- F75** S. 61(2A) inserted (26.3.01) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 45(4)**
- F76** Words inserted by National Heritage Act 1983 (c. 47, SIF 78), s. 41, **Sch. 4 para. 67(3)**

#### Marginal Citations

- M6** 1973 c. 65.  
**M7** 1973 c. 33.

## 61 Interpretation. **S**

(1) In this Act—

“ancient monument” has the meaning given by subsection (12) below;

“area of archaeological importance” means an area designated as such under section 33 of this Act;

<sup>F81</sup>[“the Commission” means the Historic Buildings and Monuments Commission for England;]

“designation order” means an order under that section;

[<sup>F58</sup> “ development consent ” means development consent under the Planning Act 2008; ]

“enactment” includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, byelaw or scheme made under an Act of Parliament;

“flooding operations” means covering land with water or any other liquid or partially liquid substance;

“functions” includes powers and duties;

“guardianship deed” has the meaning given by section 12(6) of this Act;

“land” means—

(a) in England and Wales, any corporeal hereditament;

(b) in Scotland, any heritable property;

including a building or a monument and, in relation to any acquisition of land, includes any interest in or right over land;

“local authority” means—

(a) in England <sup>F82</sup>. . . , the council of a county or district, . . . <sup>F83</sup> the council of a London borough, and the Common Council of the City of London;

<sup>F84</sup>[( aa ) in Wales, the council of a county or county borough;]

(b) in Scotland, the planning authority within the meaning of Part IX of the <sup>M8</sup>Local Government (Scotland) Act 1973;

“monument” has the meaning given by subsection (7) below;

“owner”, in relation to any land in England and Wales means (except for the purposes of paragraph 2(1) of Schedule 1 to this Act and any regulations made for the purposes of that paragraph) a person, other than a mortgagee not

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in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let;

[<sup>F56</sup> “ period for compliance ” is to be construed in accordance with section 9B(1) and (2); ]

“possession” includes receipt of rents and profits or the right to receive rents and profits (if any);

“prescribed” means prescribed by regulations made by the Secretary of State;

“the Schedule” has the meaning given by section 1(1) of this Act;

“scheduled monument” has the meaning given by section 1(11) of this Act and references to “scheduled monument consent” shall be construed in accordance with section 2(3) and 3(5) of this Act;

<sup>F85</sup> . . .

“tipping operations” means tipping soil or spoil or depositing building or other materials or matter (including waste materials or refuse) on any land; and

[<sup>F86</sup>“universal postal service provider” means a universal service provider within the meaning of [<sup>F64</sup>Part 3 of the Postal Services Act 2011]; and references to the provision of a universal postal service shall be construed in accordance with [<sup>F65</sup>that Part].]

“works” includes operations of any description and, in particular (but without prejudice to the generality of the preceding provision) flooding or tipping operations and any operations undertaken for purposes of agriculture (within the meaning of [<sup>F87</sup>the Town and Country Planning Act 1990] or, as regards Scotland, [<sup>F88</sup>the Town and Country Planning (Scotland) Act 1997] or forestry (including afforestation).

(2) In this Act “statutory undertakers” means—

- (a) persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . <sup>F89</sup> . . . <sup>F90</sup> hydraulic power or water ;
- (b) . . . <sup>F91</sup> the Civil Aviation Authority, the <sup>F92</sup> . . . , [<sup>F93</sup>a universal postal service provider in connection with the provision of a universal postal service]and any other authority, body or undertakers which by virtue of any enactment are to be treated as statutory undertakers for any of the purposes of [<sup>F94</sup>the Town and Country Planning Act 1990] or of [<sup>F88</sup>the Town and Country Planning (Scotland) Act 1997]; and
- (c) any other authority, body or undertakers specified in an order made by the Secretary of State under this paragraph.

[<sup>F95</sup>(2A) The undertaking of a universal postal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Act; and references in this Act to his undertaking shall be construed accordingly.]

- (3) For the purposes of sections 14(1) and 21(2) of this Act and paragraph 6(1)(b) and (2) (b) of Schedule 3 to this Act a person shall be taken to be immediately affected by the operation of a guardianship deed relating to any land if he is bound by that deed and is in possession or occupation of the land.

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Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) For the purposes of this Act “archaeological investigation” means any investigation of any land, objects or other material for the purpose of obtaining and recording any information of archaeological or historical interest and (without prejudice to the generality of the preceding provision) includes in the case of an archaeological investigation of any land—
- (a) any investigation for the purpose of discovering and revealing and (where appropriate) recovering and removing any objects or other material of archaeological or historical interest situated in, on or under the land; and
  - (b) examining, testing, treating, recording and preserving any such objects or material discovered during the course of any excavations or inspections carried out for the purposes of any such investigation.
- (5) For the purposes of this Act, an archaeological examination of any land means any examination or inspection of the land (including any buildings or other structures thereon) for the purpose of obtaining and recording any information of archaeological or historical interest.
- (6) In this Act references to land associated with any monument (or to associated land) shall be construed in accordance with section 15(6) of this Act.
- (7) “Monument” means (subject to subsection (8) below)—
- (a) any building, structure or work, whether above or below the surface of the land, and any cave or excavation;
  - (b) any site comprising the remains of any such building, structure or work or of any cave or excavation; <sup>F96</sup> ...
  - (c) any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part thereof which neither constitutes nor forms part of any work which is a monument within paragraph (a) above; <sup>F97</sup> and
  - (d) any site (other than one falling within paragraph (b) or (c) above) comprising any thing, or group of things, that evidences previous human activity;]
- and any machinery attached to a monument shall be regarded as part of the monument if it could not be detached without being dismantled.
- (8) Subsection (7)(a) above does not apply to any ecclesiastical building for the time being used for ecclesiastical purposes, and subsection (7)(c) above does not apply—
- (a) to a site comprising any object or its remains unless the situation of that object or its remains in that particular site is a matter of public interest;
  - <sup>F98</sup>(b) .....
- (9) For the purposes of this Act, the site of a monument includes not only the land in or on which it is situated but also any land comprising or adjoining it which appears to the Secretary of State [<sup>F99</sup>or Historic Environment Scotland]<sup>F100</sup> or the Commission] or a local authority, in the exercise in relation to that monument of any of their functions under this Act, to be essential for the monument’s support and preservation.
- (10) References in this Act to a monument include references—
- (a) to the site of the monument in question; and
  - (b) to a group of monuments or any part of a monument or group of monuments.
- (11) References in this Act to the site of a monument—
- (a) are references to the monument itself where it consists of a site; and
  - (b) in any other case include references to the monument itself.

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- (12) “Ancient monument” means—
- (a) any scheduled monument; and
  - (b) any other monument which in the opinion of the Secretary of State is of public interest by reason of the historic, architectural, traditional, artistic or archaeological interest attaching to it.
- (13) In this section “remains” includes any trace or sign of the previous existence of the thing in question.

#### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F56** Words in s. 61(1) inserted (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 6(3)**, 33(2); S.S.I. 2011/174, [art. 2](#), [Sch.](#); S.S.I. 2011/372, [art. 2](#), [Sch.](#)
- F58** Words in s. 61(1) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 20** (with s. 226); S.I. 2010/101, [art. 2](#) (with [art. 6](#))
- F64** Words in s. 61(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 103(a)**; S.I. 2011/2329, [art. 3](#)
- F65** Words in s. 61(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), **Sch. 12 para. 103(b)**; S.I. 2011/2329, [art. 3](#)
- F81** Definition inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, **Sch. 4 para. 67(2)**
- F82** Words in s. 61(1)(a) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), [Sch. 16 para. 56\(3\)](#), **Sch. 18** (with [ss. 54\(5\)\(7\)](#), [55\(5\)](#), [Sch. 17 paras. 22\(1\)](#), [23\(2\)](#)); S.I. 1996/396, [art. 4](#), **Sch. 2**
- F83** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F84** S. 61(1)(aa) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 56(3)** (with [ss. 54\(5\)\(7\)](#), [55\(5\)](#), [Sch. 17 paras. 22\(1\)](#), [23\(2\)](#)); S.I. 1996/396, [art. 4](#), **Sch. 2**
- F85** The definition of "statutory maximum" in s. 61(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV Group 2**
- F86** s. 61(1): definition of “universal postal service” inserted (26.3.01) by S.I. 2001/1149, [art. 3\(1\)](#), **Sch. 1 para. 45(2)**
- F87** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 43(2)**
- F88** Words in s. 61(1)(2)(b) substituted (27.5.1997) by 1997 c. 11, [ss. 4](#), [6\(2\)](#), **Sch. 2 para. 29(2)**
- F89** Word repealed by [Electricity Act 1989 \(c.29, SIF 44:1\)](#), s. 112(3)(4), [Sch. 17 para. 35](#), **Sch. 18**
- F90** Word repealed by [Gas Act 1986 \(c.44, SIF 44:2\)](#), s. 67(3)(4), [Sch. 8 para. 17](#), **Sch. 9 Pt. I**
- F91** Words repealed by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 83(5), **Sch. 6 Pt. I**
- F92** Words in s. 61(2)(b) repealed (31.10.1994) by virtue of 1994 c. 21, s. 67, [Sch. 9 para. 22](#), **Sch. 11 Pt. II**; S.I. 1994/2553, [art. 2](#)
- F93** Words in s. 61(2)(b) substituted (26.3.01) by S.I. 2001/1149, [art. 3\(1\)](#), **Sch. 1 para. 45(3)**
- F94** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 43(2)**
- F95** S. 61(2A) inserted (26.3.01) by S.I. 2001/1149, [art. 3\(1\)](#), **Sch. 1 para. 45(4)**
- F96** Word in s. 61(7) repealed (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 14(a)(i)**, 33(2); S.S.I. 2011/372, [art. 2](#), [Sch.](#)
- F97** S. 61(7)(d) and word inserted (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 14(a)(ii)**, 33(2); S.S.I. 2011/372, [art. 2](#), [Sch.](#)
- F98** S. 61(8)(b) repealed (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 14(b)**, 33(2); S.S.I. 2011/372, [art. 2](#), [Sch.](#)



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**F99** Words in s. 61(9) inserted (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. 52](#) (with ss. 29, 30); [S.S.I. 2015/31](#), art. 2, sch.; [S.S.I. 2015/196](#), art. 2, sch.

**F100** Words inserted by [National Heritage Act 1983 \(c. 47, SIF 78\)](#), s. 41, [Sch. 4 para. 67\(3\)](#)

**Marginal Citations**

**M8** [1973 c. 65](#).

**62 Special provision for Scotland.**

(1) ..... <sup>F77</sup>

(4) In this Act, in relation to any land in Scotland, “occupier” means an occupier with an interest in that land which is heritable and, if there is no such occupier, the owner thereof shall be deemed to be the occupier.

(5) In relation to land in Scotland, any reference in this Act—

- (a) to a mortgage shall be construed as a reference to a heritable security;
- (b) to a mortgagee shall be construed as a reference to a creditor in a heritable security; and
- (c) to a first mortgagee shall be construed as a reference to a creditor in a heritable security which ranks prior to any other heritable security over the same land.

**Textual Amendments**

**F77** Ss. 62(1)–(3), 63 repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), [Sch. 1 Pt. IV](#)

**63** ..... <sup>F78</sup>

**Textual Amendments**

**F78** Ss. 62(1)–(3), 63 repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), [Sch. 1 Pt. IV](#)

**64 Transitional provisions, consequential amendments and repeals.**

(1) Schedule 3 to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law previously in force.

<sup>X2</sup>(2) The enactments specified in Schedule 4 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.

<sup>X2</sup>(3) The enactments specified in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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#### Editorial Information

- X2** The text of s. 64(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### 65 Short title, commencement and extent.

- (1) This Act may be cited as the Ancient Monuments and Archaeological Areas Act 1979.
- (2) This Act shall come into force on such day as may be appointed by order of the Secretary of State, and different days may be appointed for different purposes; and a reference in any provision of this Act to the commencement of this Act is a reference to the day appointed for the coming into force of that provision.
- (3) This Act does not extend to Northern Ireland.

#### Subordinate Legislation Made

- P1** Power of appointment conferred by s. 65(2) exercised: [S.I. 1979/786](#), 1981/1300, 1981/1466 and 1982/362

**Status:**

Point in time view as at 27/02/2015.

**Changes to legislation:**

Ancient Monuments and Archaeological Areas Act 1979, Part III is up to date with all changes known to be in force on or before 09 April 2024. 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.