



# Ancient Monuments and Archaeological Areas Act 1979

1979 CHAPTER 46

## PART III

MISCELLANEOUS AND SUPPLEMENTAL

### *Supplemental*

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

- (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) 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.
- (3) Nothing in this section shall affect any right of the Crown in relation to treasure trove.

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

- (1) If any person—
- (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 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 of either of the following descriptions, that is to say—
- (a) any decision of the Secretary of State on an application for scheduled monument consent; and
  - (b) the giving by the Secretary of State of any direction under section 4 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, 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 Tribunals and Inquiries Act 1971 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 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 to take a decision on an application for scheduled monument consent.

## **56 Service of documents**

- (1) Any notice or other document required or authorised to be served under this Act may be served either—
  - (a) by delivering it to the person on whom it is to be served; or
  - (b) 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
  - (c) 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
  - (d) 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—
  - (a) 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
  - (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 or a local authority to exercise any function under this Act, the Secretary of State 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 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 £200.
- (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.

## **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.

## 59 Prosecution of offences: Scotland

Notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975, 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.

## 60 Regulations and orders

- (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.

## 61 Interpretation

- (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;

" designation order " means an order under that section;

" enactment " includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, bye-law 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—

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(a) in England and Wales, the council of a county or district, the Greater London Council, the council of a London borough, and the Common Council of the City of London; and

(b) in Scotland, the planning authority within the meaning of Part IX of the 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;

" the statutory maximum " means—

(a) in England and Wales the prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 (that is to say, £1,000 or another sum fixed by order under section 61 of that Act to take account of changes in the value of money); and

(b) in Scotland—

(i) on conviction in the sheriff court, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (that is to say, £1,000 or another sum fixed by order under section 289D of that Act for that purpose);

(ii) on conviction in the district court, the sum of £200;

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

" 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 the Town and Country Planning Act 1971 or, as regards Scotland, the Town and Country Planning (Scotland) Act 1972) 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 electricity, gas, hydraulic power or water;

(b) the British Airports Authority, the Civil Aviation Authority, the National Coal Board, the Post Office and any other authority, body or undertakers which by virtue of any enactment are to be treated as statutory undertakers for any of

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- the purposes of the Town and Country Planning Act 1971 or of the Town and Country Planning (Scotland) Act 1972 ; and
- (c) any other authority, body or undertakers specified in an order made by the Secretary of State under this paragraph.
- (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 Protection of Wrecks Act 1973 designating an area round the site as a restricted area.
- (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 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.

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- (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.

## **62 Special provision for Scotland**

- (1) This Act shall be treated as if it had been passed before the Scotland Act 1978 for the purposes of the following provisions of that Act (which adapt certain provisions of earlier legislation in their application to devolved matters)—
- section 21(2) (exercise by a Scottish Secretary of executive powers and duties of Ministers of the Crown);
  - section 22(1) and (2) (powers of Scottish Secretary and Assembly with respect to subordinate instruments);
  - section 60(1) (money formerly payable out of or into United Kingdom funds to be payable out of or into the Scottish Consolidated Fund);
  - section 74(2) (construction of references to property vested in a Government department);
  - section 78 (reports formerly required to be laid before Parliament to be laid instead before the Scottish Assembly); and
  - section 82(1) and (3) (construction of references to Ministers of the Crown and power to make consequential amendments in earlier legislation).
- (2) The reference in Schedule 5 to that Act to sections 4 to 6 of the Historic Buildings and Ancient Monuments Act 1953 shall be construed as including a reference to the section 4A inserted in the said Act of 1953 by section 48(2) of this Act.
- (3) Part III of Schedule 10 to the Scotland Act 1978 (which lists devolved and non-devolved matters dealt with in enactments) shall be amended by the addition at the end thereof of the following entry—

“The Ancient Monuments and Archaeological Areas Act 1979.

The function under section 44(9) in respect of land held by excepted statutory undertakers and the power of the Treasury to determine questions under section 50(4) are not included.”

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- (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.

### 63 Special provision for Wales

- (1) This Act shall be treated as if it had been passed before the Wales Act 1978 for the purposes of the following provisions of that Act (which adapt certain provisions of earlier legislation in relation to the exercise by the Welsh Assembly of its functions)—
- section 55 (money formerly payable out of or into United Kingdom funds to be payable out of or into the Welsh Consolidated Fund);
  - section 74 (construction of references to Ministers of the Crown and to property vested in a Government department);
  - section 76 (reports formerly required to be laid before Parliament to be sent instead to the Welsh Assembly); and
  - section 77(2) (power to make consequential amendments in earlier legislation).
- (2) In Part VIII of Schedule 2 to that Act (Land Use and Development), in the entry relating to the Town and Country Planning (Amendment) Act 1972, for the words " section 10 " there shall be substituted the words " sections 10 and 10A ".
- (3) In Part XII of Schedule 2 to the Wales Act 1978 (Ancient Monuments and Historic Buildings), for the entry relating to the Ancient Monuments Acts 1913 to 1974 there shall be substituted the following entry—

<i>“Enactment</i>	<i>Excluded functions</i>
The Ancient Monuments and Archaeological Areas Act 1979.	<p>The function under section 44(9) in respect of land held by excepted statutory undertakers.</p> <p>The functions under section 50 except so far as exercisable in relation to land vested in or held for the purposes of the Assembly.</p> <p>The function under section 61(2)(c).”</p>

- (4) The references in Part XII of Schedule 2 and in Schedule 3 to that Act to Part I and sections 4 to 6 of the Historic Buildings and Ancient Monuments Act 1953 respectively shall each be construed as including a reference to the section 4A inserted in the said Act of 1953 by section 48(2) of this Act.
- (5) In Schedule 11 to that Act, paragraph 2 (which relates to the Ancient Monuments Consolidation and Amendment Act 1913) shall be omitted.



**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.
- (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.
- (3) The enactments specified in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**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.