



Heritage Crime

A Guide for Law Enforcement Officers

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Heritage and Cultural Property Crime poses a significant threat both to the historic environment and to the security of cultural property in museums, archives, private collections and libraries, which conserve and display our national and international cultural heritage for the enjoyment of future generations.

In economically challenging times we have already seen that criminals have adapted, seeking opportunities to profit from vulnerabilities in these sectors. The National Police Chiefs' Council (NPCC) led Heritage and Cultural Property Crime Working Group aims to address this vulnerability by bringing together heritage sector experts, Police, National Crime Agency and other law enforcement professionals to protect cultural property and the historic environment.

I am delighted by the support that has been shown from a wide variety of agencies in the production of this Heritage and Cultural Property Crime officer's guide. This document is intended to assist front line officers with information on the most common heritage offences and to signpost additional support and contacts. The emphasis is on a diligent investigation by attending officers at any heritage crime including early liaison by the newly formed Heritage and Cultural Liaison Officer network (HCLO's), the CPS and partner agencies for support and guidance. Any such crime is likely to have significant community and media interest. Officers should be reassured that additional support and guidance can be sought via their force HCLO enabling access to various heritage sector networks across the country. It is hoped that the guide will also increase officer's awareness and focus towards heritage crime.

I would encourage you to join the heritage crime group on POLKA as an interesting and informative portal to information, best practice and most importantly to build law enforcement contacts sharing ideas and approaches to prevent and respond to heritage crime.

Given the changing profile of this type of crime, we must be vigilant and find innovative ways together to respond to the challenges we face in seeking to play our part in conserving our cultural heritage for future generations.

A handwritten signature in black ink, appearing to read 'A.C. Bliss'. The signature is written in a cursive style and is underlined.

Andy Bliss

Chief Constable QPM, BA (Hons)



What is Heritage Crime?

“Any offence involving damage or loss to the historic environment, including all such offences involving cultural property”

If the crime does fall directly within the definition of Heritage Crime, then further consideration should be given as to whether it is Heritage Crime against an Historic Environment OR Heritage Crime against Cultural Property:

Historic Environment

“Is made up of the buildings, monuments, sites and landscapes that reflect our history”

Cultural Property

“Is movable property of great importance to cultural heritage, such as objects of artistic, historical, archaeological or scientific interest, including works of art and manuscripts”

What is the impact of Heritage Crime?

Heritage assets and items of cultural property are subject to crime as are other ordinary buildings, property and sites that you encounter on a daily basis; however, the harm that can be caused is often greater, because of the special heritage or cultural significance. When these buildings, sites or items are damaged or stolen, they are often lost forever. Victims of heritage and cultural property crime are therefore not just the owners, but also local communities, the nation and those who care for them.

Where ancient artefacts are stolen from historic or museum settings, we lose the ability to accurately gather knowledge and information about past civilisations and cultures. We know that organised criminals are targeting ancient sites and museums in the British Isles and internationally to profit from the sale of stolen and looted artefacts in worldwide markets.

We also know that, in areas of conflict, items of national and global significance are being destroyed and traded in the furtherance of political and religious ideologies.



Protected sites and buildings – How to identify and locate them

The historic environment is made up of the buildings, monuments, sites and landscapes that reflect our history.

Listed Buildings - Protecting buildings of special architectural or historic interest by giving them listed status, which prevents them being demolished, extended or altered without permission.

Scheduled Monuments - Protecting nationally important sites and monuments of archaeological or historic interest by giving them scheduled status, which protects them from being changed without permission.

SSSI / ASSI - Site of Special Scientific Interest (SSSI) / Area of Special Scientific Interest (ASSI) in Northern Ireland are a conservation designation denoting a protected area in the United Kingdom.

Protected Wrecks - Sites of archaeological, historical or artistic importance by giving them protected wreck site status under The Protection of Wrecks Act 1973.

The following website can assist in identifying protected sites and buildings:



Find protected areas of countryside

www.gov.uk/check-your-business-protected-area

Historic England – Search the List

historicengland.org.uk/listing/the-list

Heritage Gateway

<http://www.heritagegateway.org.uk/gateway/>



Investigation - Crime is Crime

The 'heritage' aspect of an offence can form an aggravating factor to a wide range of criminal offences including:

- Criminal Damage
- Theft
- Burglary
- Going Equipped to Steal
- Road Traffic Offences

There are also a range of specific offences that are specific to the historic environment and cultural property and this booklet will briefly explain some of the most frequently used.

Investigation of a heritage crime should be similar to the way in which any crime is investigated. However, it is advised that there is consultation with the Heritage Lead within the force / liaison and with dedicated CPS lawyer(s) at the earliest opportunity in relation to more complex cases. This will ensure that the investigation can be operated in a way best suitable to any possible prosecution. The HCLO for the force may also be able to assist or signpost to obtain the necessary impact statements using partnership support.

Heritage Crime Impact Statements clearly explain the effect that a crime has had on the historic environment or an item of cultural property and will assist the Court in the sentencing process. This is particularly relevant in cases of theft and handling stolen heritage assets as these offences are specifically identified in the sentencing guidelines for theft offences.

www.sentencingcouncil.org.uk/publications/item/theft-offences-definitive-guideline/

Consideration should also be given in respect of searching the Portable Antiquities Scheme database, which is a voluntary recording scheme of archaeological objects found by members of the public in England and Wales when items are recovered to assist in their identification. It can be accessed via www.finds.org.uk.

Further assistance can be found via the 'A Memorandum of Understanding on the Prevention, Investigation, Enforcement and Prosecution of Heritage Crime' document:

<https://content.historicengland.org.uk/content/docs/legal/memo-understanding.pdf>

The POLKA Heritage Crime pages could also assist with investigations and queries.



Crime Prevention Suggestions

1. Make crime harder to commit
2. Deny access
3. Monitor exits
4. Move potential offenders away
5. Control tools/weapons
6. Extend the sense of community ownership
7. Increase the potential for being seen
8. Reduce anonymity of visitors
9. Encourage local vigilance
10. Strengthen formal surveillance.
11. Conceal targets
12. Remove temptation
13. Mark property
14. Make dealing in stolen goods more difficult
15. Deny benefits
16. Reduce frustrations with a service or access
17. Avoid escalation of disputes
18. Use calming measures
19. Increase local engagement
20. Discourage imitation
21. Set rules
22. Display rules
23. Increase understanding and reduce prejudice
24. Enable lawful behaviour

For further information please see the Heritage Crime Prevention Measures: A Guide for Owners, Tenants and Managers of Heritage Assets document from Historic England:

<https://content.historicengland.org.uk/images-books/publications/heritage-crime-prevention-guide/hc-prevention-guidance.pdf/>

For further advice please consider liaising with your forces' Crime Prevention Officer(s).



What is Nighthawking?



'Nighthawking' is a term used in the United Kingdom to describe unlawful metal detecting which can take place **at any time of the day** on farmland, archaeological sites and other areas of archaeological interest, in order to search for coins and other artefacts for their historic and financial value.

How do Nighthawks operate?

Nighthawks will enter land without permission from the landowner with a range of equipment including metal detecting devices and digging implements. Items found during the course of the activity will be classed as stolen property and tend to be kept as part of a private collection or sold for personal profit. As a result, the finders are unlikely to report their finds to the Portable Antiquities Scheme and valuable historical data is lost for good.

What is the impact of Nighthawking?

Where nighthawks operate on farmland they often cause damage to crops and seedlings, gates are left open or damaged and livestock is disturbed. Where nighthawking occurs on protected archaeological sites known as Scheduled Monuments, they may commit additional offences contained within the Ancient Monuments and Archaeological Areas Act 1979 namely – damage and using metal detecting equipment without a licence.

Nighthawks have a complete disregard for the law and experts warn that we are losing the priceless heritage of our nation, simply to satisfy the greed of a minority group of criminals.

The Legislation

- Removal of any object from land without the landowner's permission may amount to an offence of theft.
- Travelling to a potential site with metal detecting equipment may amount to an offence of going equipped to steal.
- It is also an offence to damage a protected archaeological site, known as a Scheduled Monument, or to use metal detecting equipment on a Scheduled Monument without a licence from Historic England or failing to report objects that maybe defined as treasure within the terms of the Treasure Act 1996.



Theft of Metal – Churches

Why is metal theft happening?

Thieves continue to target many types of metal, principally lead and copper. Whilst roofs are the most likely targets, particularly on churches, other sources of metal such as rainwater goods, lightning conductors and churchyard features are all at risk.

The roof of any building is always an important element in its design, structure and appearance. In the case of an historic church it is likely to be a major feature in the way it was constructed, its appearance, the impact it has on the local streetscape or landscape and the way in which it protects the fixtures and fittings inside. All these practical elements are part of what makes it valuable within a particular place. These things, together with the building's historical associations with individuals and the community, the archaeological remains that lie under it or have been incorporated into it, and its sheer beauty, come together to make it significant. In the case of 14,500 places of worship, the significance is such that it has been formally designated as of national value and listed as grade II, II* or I. By the end of 2010, Ecclesiastical, the main insurer of churches, reported claims of over £22m (see www.ecclesiastical.com/theftofmetal for their advice on prevention). Lead sheet was the main target and a significant proportion of this cost was making good damage caused by the thieves and the subsequent ingress of water. The increase in theft has come about because of spiralling prices caused by worldwide demand for lead-acid batteries, both for vehicles and UPS (Uninterrupted Power Supplies) and, more recently, because of speculator activity that this rising market price has attracted. Prices started to fall in 2009 and as a consequence, so did the incidence of theft, and there have been similar rises and falls in commodity prices in more recent times.

This problem is not new. In the early 1980s, churches were targeted, but a concerted campaign by the insurers to encourage church authorities to carry out simple preventative measures proved successful and the numbers of attacks fell dramatically. The various heritage groups are working with the Home Office, the Police and many other partners. The Theft Act 1968 and Criminal Damage Act 1971 will apply in most cases.

Heritage Crime Impact Statement Guidance relating to theft of metal from church buildings can be found on the Church Care website:

www.churchcare.co.uk/images/Churches_Guidance_Heritage_crime_impact_statement.pdf



What is Treasure?



Any antiquities or treasure found by metal detecting and/or digging in England, Wales or Northern Ireland must be reported to the local Coroner within the reporting period. In Scotland, where the common law of Treasure Trove still applies, it must be reported to Treasure Trove Unit or to a local museum. In practice, finds in England and Wales can be referred to Finds Liaison Officers who operate as part of the Portable Antiquities Scheme, and those made in Northern Ireland to the Ulster Museum, any local museum or police station.

Summary Definition of Treasure – Treasure Act 1996

(England, Wales and Northern Ireland)

The following finds are Treasure under the Act, if found after 24 September 1997 (or, in the case of category 2, if found after 1 January 2003):

- Any metallic object, other than a coin, provided that at least 10 per cent by weight of metal is precious metal (that is, gold or silver) and that it is at least 300 years old when found. If the object is of prehistoric date it will be Treasure provided any part of it is precious metal.
- Any group of two or more metallic objects of any composition of prehistoric date that come from the same find (see below)
- Two or more coins from the same find provided they are at least 300 years old when found and contain 10 per cent gold or silver (if the coins contain less than 10 per cent of gold or silver there must be at least ten of them). Only the following groups of coins will normally be regarded as coming from the same find: a) Hoards that have been deliberately hidden, b) Smaller groups of coins, such as the contents of purses, that may have been dropped or lost, and c) Votive or ritual deposits.
- Any object, whatever it is made of, that is found in the same place as, or had previously been together with, another object that is Treasure.

Any object that would previously have been treasure trove, but does not fall within the specific categories given above, any objects that are less than 300 years old, any objects that are made substantially of gold or silver or, that have been deliberately hidden with the intention of recovery and whose owners or heirs are unknown, will come into this category.



NB An object or coin is part of the 'same find' as another object or coin if it is found in the same place as, or had previously been together with, the other object. Finds may have become scattered since they were originally deposited in the ground.

What should be done if Treasure is found?

All finds of Treasure must be reported to a coroner for the district in which they are found either within 14 days after the day on which you made the discovery or within 14 days after the day on which you realised the find might be treasure. Your local Finds Liaison Officer can assist you in determining whether a find constitutes potential Treasure and can report the find to the coroner on your behalf.

In England, Wales and Northern Ireland it is an offence to fail to report the finding of treasure:

Fail to Report the Finding of Treasure - Section 8 of the Treasure Act 1996 *

Points to Prove:

Any person who fails to report the finding of an object, which they believe or have reasonable grounds for believing is treasure, within the required period.

Defence - Section 8(4):

For a person to show that they had, and had continued to have, a reasonable excuse for failing to notify the coroner.

More guidance can be found at the following website in relation to all parts of the UK:

www.finds.org.uk/treasure

Heritage Crime Impact Statements

It can be hard to explain the impact of heritage crime. The Police and the Courts may not understand the significance of a church or monument, or the effect the crime has had on a local place or community. A Heritage Crime Impact Statement (HCIS) will allow heritage professionals to personalise the crime and its impact on the building or monument, the organisation responsible for its upkeep, the local community and, when it is open to the public, those who make use of it.

The following information and evidence should be considered for inclusion:

- a description of the heritage asset and/or historic area that is affected by the crime including any local and/or national designations,



- the significance of the heritage asset or area in both national and local terms, whether designated or not,
- if it is designated, an explanation of that designation and what that means,
- the impact of the crime on the heritage asset or historic area both direct and indirect, including an assessment of the loss/harm to the asset itself and whether this is reversible or irreversible and also the impact on the wider area,
- the cost of making good,
- specific information from the Police and other agencies, indicating the number of times the asset/setting has been subject to crime and antisocial behaviour,
- the number of environmental clean ups required at an historic visitor attraction in order to remove graffiti, drugs, litter or fly-tipping,
- the quantity of reports of crime received by the Police, Local Authority, English Heritage etc. relevant to the historic environment.

The Person Providing the Statement

It is important that the person making the statement can describe how the offending behaviour has resulted in:

- loss of historical or architectural, archaeological or artistic information,
- damage, including direct and/or indirect harm to the property and/or historic environment as well as the cost of making good,
- when appropriate, any reduction in visitor numbers to a historic attraction.

*For full offence details please see the Police National Legal Database (PNLD)

Guidance on the preparation of Heritage Crime Impact Statements can be found on the Historic England website: <https://historicengland.org.uk/images-books/publications/heritage-crime-impact-statements/>



Roman figurine of a bull found in Hertfordshire



LEGISLATION

The Use of Metal Detectors – ‘Nighthawking’

Metal detectors cannot be lawfully used on private property without the express permission of the land owner, or in the case of public property, the local authority. Permission to use a metal detector on parts of the foreshore may be obtained from the Crown Estates. The foreshore in England, Wales and Northern Ireland is the land between mean high water and mean low water. In Scotland it is between mean high water of spring tides and mean low water of spring tides. Permission from the Secretary of State is required to use them on Scheduled Monuments. Generally the Ministry of Defence do not grant permission to use metal detectors on the land they control.

Anyone found metal detecting without permission should be considered to be in possession of articles for use in theft or burglary (or going equipped). Anything they have discovered and removed from the land should be considered to be stolen property.

Offences Relating to the Use of Metal Detectors in Scheduled Monuments and Areas of Archaeological Importance

The Ancient Monuments and Archaeological Areas Act 1979 sets out several offences in relation to the use of metal detectors within the boundaries of scheduled monuments and areas of archaeological importance.

The Act defines a metal detector as:

- Any device designed or adapted for detecting or locating any metal or mineral in the ground.

The Use of Metal Detectors in Schedule Monuments/Areas of Archaeological Importance Section 42(1) and (5)(a) of the Ancient Monuments and Archaeological Areas Act 1979 +

Points to Prove:

Any person who uses a metal detector in a scheduled monument or area of archaeological importance: without the written consent of the Historic Buildings and Monuments Commission (England) or the Secretary of State (elsewhere) in contravention of condition of consent.



The Removal of Objects Discovered by the Use of a Metal Detector in a Schedule Monument/Area of Archaeological Importance Section 42(3) and 5(b) of the Ancient Monuments and Archaeological Areas Act 1979 +

Points to Prove:

Any person who removes any object of archaeological or historical interest discovered by the use of a metal detector from a scheduled monument or area of archaeological importance without the written consent of the Historic Buildings and Monuments Commission (England) or the Secretary of State (elsewhere) in contravention of condition of consent.

Defence - Section 42(6) and 42(7):

For a person, who is alleged to have used a metal detector without consent, to show that they used it for a purpose other than detecting or locating objects of archaeological or historical interest.

For a person, who is alleged to have used a metal detector and/or removed an object archaeological or historical interest without consent, to show that they have taken all reasonable precautions to find out whether the place where they used it was a protected place and did not believe that it was.

Dealing in Cultural Objects

The unauthorised removal and trade of objects of historical, architectural or archaeological interest, i.e. cultural objects, from historic buildings or sites of archaeological interest is an offence under the Dealing in Cultural Objects (Offences) Act 2003.

Dealing in Tainted Cultural Objects - Section 1 of the Dealing in Cultural Objects (Offences) Act 2003 (applies after 30 December 2003)

Points to Prove:

Any person who dishonestly deals in a cultural object which they know or believe to be tainted.



Dealing in Objects

Section 3 of the Dealing in Cultural Objects (Offences) Act 2003

A person deals in an object if they:

- a) acquire, dispose of, import or export it
- b) agree with another to acquire, dispose of, import or export it, or
- c) make an arrangements under which another person:
 - i. acquires, disposes of, imports or exports it, or
 - ii. agrees with a third person to acquire, dispose of, import or export it.

'Acquire': to buy, hire, borrow or accept.

'Dispose of': to sell, let on hire, lend or give to another.

NB

In relation to agreeing or arranging to do an act, it is immaterial whether the act is agreed or arranged to take place in the United Kingdom or elsewhere

Tainted Cultural Objects - Section 2 of the Dealing in Cultural Objects (Offences) Act 2003

A cultural object becomes tainted if it is:

- a) Removed from a:
 - i. building or structure of historical, architectural or archaeological interest where the object has at any time formed part of the building or structure, or
 - ii. monument of such interest, including:
 - a. any work, cave or excavation,
 - b. any site comprising the remains of any building or structure or of any work, cave or excavation, or
 - c. any site comprising of, any vehicle, vessel, aircraft or other movable structure, or part of any such thing,
 - o including any remains, trace or sign of such things, or
- b) Excavated, and
 - the removal or excavation constitutes an offence, regardless of whether:
 - a. the removal or excavation was done in the United Kingdom or elsewhere,
 - b. the offence is committed under the law of a part of the United Kingdom or under the law of any other country or territory.



NB

- 1) It must be shown that the person either knew or believed the object to be tainted
- 2) It is immaterial whether:
 - a. the person knows or believes that the object is a cultural object,
 - b. a building, structure or work is above or below the surface of the land,
or
 - c. a site is above or below water.

Offences by Bodies Corporate - Section 5 of the Dealing in Cultural Objects (Offences) Act 2003

When an offence is found to have been committed by a body corporate with the consent or connivance of an officer (i.e. a director, manager, secretary or other similar officer of the body or a person purporting to act in any such capacity) or is attributable to any neglect on their part, that person, as well as the body corporate, will be guilty of the offence and liable to be proceeded against and punished accordingly.

When the affairs of a body corporate are managed by its members, the offence applies in relation to the acts and defaults of a member in connection with their functions of management as if they were a director of the body.

* For full offence details please see the Police National Legal Database (PNLD)



Wrecks

Any wreck material found in UK territorial waters or outside the UK but brought within UK territorial waters must be reported to the Receiver of Wreck under section 236 of the Merchant Shipping Act 1995, however small or seemingly insignificant the material is. It can include, for example, portholes, bells, plates, fixtures and fittings, bundles of wood, hatch covers and archaeological material such as medieval pots, gold coins, cannon etc. often recovered from ship wrecks.

The Reporting of Wrecks - Section 236(1) *

This requires that any person who finds or takes possession of any wreck in UK waters or outside UK waters and brings it within those waters must:

- a. if they are the owner of it,
 - o give notice to the receiver stating that they have found or taken possession of it and describing the marks by which it may be recognised, or
- b. if they are not the owner of it,
 - o give notice to the receiver that they have found or taken possession of it, and as directed by the receiver, either hold it to the receivers order or deliver it to the receiver.

Fail to Report Wreckage - Section 236(2) of the Merchant Shipping Act 1995

Points to Prove:

Any person who fails to report wreckage as required by section 236(1)

Requirement for Cargo and Other Articles to Be Delivered Up to the Receiver - Section 237(1)

When a vessel is wrecked, stranded, or in distress at a place on or near the coasts of the United Kingdom or a tidal water within United Kingdom waters, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from it must be delivered to the receiver.

Conceal/Refuse to Deliver Up Cargo - Section 237(2) of the Merchant Shipping Act 1995

Points to Prove:

Any person who conceals or keeps possession of any such cargo or article, or refuses to deliver any such cargo or article to the receiver or to any person authorised by the receiver to require delivery.

* For full offence details please see the Police National Legal Database (PNLD)



The Protection of Wrecks

Certain wrecks lying in UK waters are protected under the Protection of Wrecks Act 1973. The Act allows the Secretary of State to designate a restricted area around each wreck. This area varies from site to site. The Act prohibits carrying out certain acts and operations within the restricted area around each wreck unless authorised by a licence issued by the Secretary of State.

Unlawful Activities in Relation to Protected Wrecks - Section 1(3) of the Protection of Wrecks Act 1973 *

Points to Prove:

Any person who carries out, or causes or permits another to carry out an unlawful activity in relation to a protected wreck, otherwise than under a licence issued by the Secretary of State.

Unlawful Activities in Relation to Protected Wrecks

These are:

- a. tampering with, damaging or removing any part of a vessel lying wrecked on or in the sea bed, or any object formerly contained in such a vessel,
- b. carrying out diving or salvage operations directed to the exploration of any wreck or to removing objects from it or from the sea bed, or using equipment constructed or adapted for any purpose of diving or salvage operations, or
- c. depositing, so as to fall and lie abandoned on the sea bed, anything which, if it were to fall on the site of the wreck (whether it does so or not), would wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck.
- d.

It is also an offence to obstruct anyone acting in accordance with a licence to carry out diving or salvage operations issued by the Secretary of State:

Obstruct Persons Authorised to Carry Out Diving and/or Salvage Operations - Section 1(6) of the Protection of Wrecks Act 1973

Points to Prove:

Any person who obstructs, or causes or permits another to obstruct anyone authorised by the Secretary of State to carry out diving and/or salvage operations in relation to a protected wreck.



The Act also allows the Secretary of State to designate certain wrecks as dangerous, and makes it an offence to enter the area around the wreck. Access to only two wrecks is prohibited at present, the SS Richard Montgomery, lying in the Thames Estuary, and the SS Castilian, lying off the coast of Anglesey, both of which carried extensive cargos of munitions.

Entering the Prohibited Area Surrounding a Protected Wreck - Section 2 of the Protection of Wrecks Act 1973 *

Points to Prove:

Any person who enters the prohibited area surrounding a protected wreck whether on the surface or under water otherwise than with the authority of the Secretary of State.

Defence - Section 3(3) of the Protection of Wrecks Act 1973

For a person to show that the act was done:

in the course of any action taken for the sole purpose of dealing with an emergency of any description, in exercising, or seeing to the exercise of, functions conferred by or under an enactment (local or other) on them or a body for which they act, or out of necessity due to stress of weather or navigational hazards.

Jurisdiction - Section 3(4) of the Protection of Wrecks Act 1973

Proceedings for an offence may be taken, and the offence may for all incidental purposes be treated as having been committed, at any place in the United Kingdom where the person is for the time being.

The Protection of Military Remains

The Protection of Military Remains Act 1986 gives protection to the wreckage of crashed military aircraft and designated wreckage of military vessels. There are two types of protection, Protected Places and Controlled Sites.

Protected Places

Military aircraft from the UK or other nations which have crashed in the UK, its territorial waters or its controlled waters are automatically protected under the Act. The wreckage of UK military aircraft is also protected under the Act when lying elsewhere in the world. Shipwrecks of vessels, which have sunk since 14 August 1914, require specific designation under the Act in order to be a Protected Place. These are designated by order of the Secretary of State made by statutory instrument. Activities and operations which would



otherwise be unlawful under the Act may be authorised under licence of the Secretary of State.

Unlawful Activities in Relation to Military Remains in a Protected Place - Section 2(1)(b) of the Protection of Military Remains Act 1986 *

Points to Prove:

Any person who believing or having reasonable grounds for suspecting that any place comprises any remains of an aircraft or vessel which has crashed, sunk or been stranded while in military service engages in an unlawful activity in relation to protected military remains.

Unlawful Activities in Relation to Protected Military Remains

These are:

- a. tampering with, damaging, moving, removing or unearthing the remains,
- b. entering any hatch or other opening in any of the remains which enclose any part of the interior of an aircraft or vessel, or
- c. causing or permitting any other person to do so.

Unlawful Operations in Relation to Military Remains in a Protected Place - Section 2(1)(c) and (d) of the Protection of Military Remains Act 1986 *

Points to Prove:

Any person who knowingly takes part in, causes or permits any other person to take part in, or uses, or causes or permits any other person to use any equipment in connection with the carrying out of any excavation or diving or salvage operation:

- which is carried out for the purpose of doing something that constitutes, or is likely to involve, an unlawful activity in relation to any remains of an aircraft or vessel which are comprised in a protected place or part of such a place, or
- which, in the case of an excavation, if it is carried out for the purpose of discovering whether any place in the United Kingdom or United Kingdom waters comprises any remains of an aircraft or vessel which has crashed, sunk or been stranded while in military service.

Controlled Sites

Controlled sites are those within the UK, its territorial waters or international waters which appears to contain the remains of any crashed military aircraft or vessel (UK or other) which has sunk or been stranded within the last 200 years. Only the wreckage of UK military aircraft and vessels can be designated as a controlled site if in international waters. Activities and operations which would otherwise be unlawful under the Act may be authorised under licence of the Secretary of State.



Unlawful Activities in Relation to Military Remains in a Controlled Site - Section 2(1)(a) of the Protection of Military Remains Act 1986 *

Points to Prove:

Any person who in relation to any remains of an aircraft or vessel which are comprised in a place which is part of a controlled site tampers with, damages, moves, removes or unearths the remains, enters any hatch or other opening in any of the remains which enclose any part of the interior of an aircraft or vessel, or causes or permits any other person to do so.

Unlawful Operations in Relation to Military Remains in a Controlled Site - Section 2(1)(c) and (d) of the Protection of Military Remains Act 1986 *

Points to Prove:

Any person who knowingly takes part in, causes or permits any other person to take part in, or uses, or causes or permits any other person to use any equipment in connection with the carrying out of any excavation or diving or salvage operation:

- which is carried out at a controlled site for the purpose of investigating or recording details of any remains of an aircraft or vessel which are comprised in a place which is part of that site, or
- which, in the case of an excavation, if it is carried out for the purpose of discovering whether any place in the United Kingdom or United Kingdom waters comprises any remains of an aircraft or vessel which has crashed, sunk or been stranded while in military service.

Defences - Section 2(5) to 2(6):

In relation to a place which is not part of a controlled site, for a person to show that they believed on reasonable grounds that the circumstances were such that the place would not have been a protected place.

For a person to show that what they did, or caused or permitted to be done, was urgently necessary in the interests of safety, health or to prevent or avoid serious damage to property.

* For full offence details please see the Police National Legal Database (PNLD)



For Further Reading and Best Practice Guidance, please see the following links:



www.polka.pnn.police.uk
Search for Heritage Crime



www.docmanager.pnld.co.uk



www.historicengland.org.uk



www.english-heritage.org.uk



www.designatedsites.naturalengland.org.uk



www.cadw.gov.wales/?lang=en



www.naturalresources.wales/?lang=en



www.doeni.gov.uk/



www.magic.defra.gov.uk/



www.historicengland.org.uk/advice/caring-for-heritage/heritage-crime/memorandum-of-understanding/

Local Councils can also assist particularly in relation to any issue that involves aspects of planning. Some powers, legislation and by-laws may differ between England, Wales and Northern Ireland.



First published by Hertfordshire Constabulary April 2016

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Please contact Mark.Harrison@HistoricEngland.org.uk with any questions about this document. Further information about what Historic England is doing to tackle the problem of crime against historic places is available on our website:

<https://www.historicengland.org.uk/advice/caring-for-heritage/heritage-crime/>

