



# The Treasure Act 1996

Code of Practice (Revised)

ENGLAND & WALES



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## Introduction

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Notes: This Code has effect in England and Wales; a separate code has been prepared for Northern Ireland. A Welsh language version of the Code is available on request from the Department for Culture, Media and Sport.

When the term ‘national museum’ is used in this document it is intended to refer to the British Museum in the case of finds from England and the National Museums & Galleries of Wales in the case of finds from Wales. References to the ‘Secretary of State’ are to the Secretary of State for Culture, Media and Sport.

If finders or others need further advice about any matters relating to the Treasure Act or this Code, then they are recommended to contact the Department for Culture, Media and Sport, the British Museum or (for Wales) the National Museums & Galleries of Wales or their local finds liaison officer. Addresses and telephone numbers are given in Appendix 2.

In many places this Code gives examples of what may or may not constitute treasure and provides advice as to how coroners may approach an inquest. It is intended to provide guidance for all those concerned with treasure. It is emphasised, however, that questions of whether or not any object constitutes treasure and how a coroner should conduct an inquiry into treasure are for the coroner to decide on the facts and circumstances of each case. Nothing in this Code obviates the need for a finder to give independent consideration as to whether something he has found might constitute treasure and where there is any doubt the find should be declared. Finders are strongly urged to report all archaeological objects under the Portable Antiquities Scheme (see below, paragraph 3).

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## A. Summary

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1. The Treasure Act 1996 ('the Act') replaced the common law of treasure trove in England, Wales and Northern Ireland. This has been further supplemented by the Treasure (Designation) Order (see paragraphs 4–6). Treasure trove hitherto provided effectively the only legal protection afforded to antiquities found on land in England, Wales and Northern Ireland. Under the law of treasure trove, there was a requirement that finds of objects made of gold or silver were reported to the coroner. Before an object could be declared treasure trove and be the property of the Crown it had to pass three tests: it had to be made substantially of gold or silver, it had to have been deliberately hidden with the intention of recovery, and its owner or his heirs had to be unknown. In practice national and local museums had the opportunity to acquire finds of treasure trove. If a museum chose to acquire the find, the lawful finder normally received the full market value (assessed by the Treasure Trove Reviewing Committee); if not, the object was returned, normally to the finder. The Act (see Appendix 1) removes the need to establish that objects were hidden with the intention of being recovered, except in a very few cases (see paragraph 9); it sets out the precious metal content required for a find to qualify as treasure; and it extends the definition of treasure to include other objects found in archaeological association with finds of treasure. The Act confirms that treasure vests in the Crown, or the franchisee if there is one, subject to prior interests and rights. It simplifies the task of coroners in determining whether or not a find is treasure and it includes a new offence of non-declaration of treasure. Lastly, it states that occupiers and landowners will have the right to be informed of finds of treasure from their land and that they will be eligible for rewards.

## The Code of Practice: the provisions of the Act

2. Many of the principles formerly followed in the administration of treasure trove are retained under the Act, although in a modified form. Section 11 of the Act requires the Secretary of State to prepare a Code of Practice relating to treasure, to keep it under review and to revise it when appropriate (see paragraph 89). A review took place in 2000–2001. The Code sets out the guidelines to be followed by the Secretary of State when considering whether or not treasure should be offered to a museum or to the finder or to any other person, when determining a reward and when deciding whether to disclaim the Crown's title to treasure. The Code also provides guidance for finders, museums, coroners and others who are concerned with treasure. Before revising the Code, the Secretary of State must consult such interested parties as appear to be appropriate and any revision of the Code will not come into force until it has been approved by a resolution of each House of Parliament. The Secretary of State is required to publish the Code in such a way as will bring it to the attention of all interested parties and the Secretary of State may publish separate Codes for (a) England and Wales, (b) Northern Ireland and (c) for different parts of England, Wales and Northern Ireland if appropriate. This Code has effect in England and Wales; it was first issued in 1997. The present revised edition is the product of the consultation exercise conducted in 2000–2001. The Government recognises that this Code needs to be distributed as widely as possible to all interested parties: especially to metal detectorists, landowners, archaeologists, museums, dealers, coroners and the police. The Department for Culture, Media and Sport also produces leaflets summarising the main requirements of the Act, which are also distributed widely.

## Relationship between this Code and the Portable Antiquities Scheme

3. The Act is intended to provide a mechanism to allow the public acquisition of finds that come within its scope, but it is not primarily intended to deal with the recording of all archaeological finds.

However, all archaeological finds, if properly recorded, can potentially give us important information about the past. The intention of the Portable Antiquities Scheme, which from 2003 will be extended to the whole of England and Wales, is to record, for public benefit, all archaeological objects found by members of the public. All responsible finders should report their archaeological finds to their local finds liaison officer, although this is a voluntary scheme and there is no compulsion to report non-treasure items. Finds liaison officers also provide advice to finders on treasure finds.

## **B. Commencement of the Act and the Treasure (Designation) Order 2002**

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4. The Act (see Appendix 1) commenced on Wednesday 24 September 1997, while the provisions of the Treasure (Designation) Order 2002 (the 'Order': see also Appendix 1) will commence on 1 January 2003. The provisions of the Act only apply to objects found after 24 September 1997 and of the Order only to those objects that come within the scope of the Order that are found after 1 January 2003; the burden of proof in seeking to show that an offence has been committed under section 8 of the Act because an object of treasure that has not been reported was found after the commencement of the Act or the Order will rest with the prosecution.

## C. Definition of Treasure

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### I. The Definition in the Treasure Act and the Treasure (Designation) Order 2002

5. The Treasure Act provides that the following categories of object are treasure under section 1 of the Act and the Treasure (Designation) Order 2002 (see Appendix 1):

**(iii) Objects other than coins (section 1(1)(a)(i) and section 1(1)(b) (The Treasure (Designation) Order 2002)).**

6. any 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. In the case of metallic objects, other than coins, of prehistoric date containing less than 10 per cent of precious metal by weight of metal (they may be entirely composed of base metal, for example) there must be at least two such metallic objects from the 'same find': (see paragraphs 11, 14 and 16). Also an object, other than a coin, of prehistoric date is treasure if any part of it is precious metal (see paragraph 12). Objects, other than objects of prehistoric date, plated in gold or silver will not normally be treasure (unless they are found in association with objects that are treasure).<sup>1</sup>

**(ii) Coins (section 1 (1) (a) (ii) and (iii) and section 3 (2))**

7. all coins that contain at least 10 per cent of gold or silver by weight of metal and that come from the same find, provided a find consists of at least two coins with a gold or silver content of at least 10 per cent. The coins must be at least 300 years old at the time of discovery. In the case of finds consisting of coins that contain less than 10 per cent of gold or silver there must be at least ten such coins; they will also need to be at least 300 years old. (A list of coins that are commonly found in England and Wales that contain less

<sup>1</sup> However, where an object is made up of distinct components, only one of which is precious metal (for example, a gold binding on an amber object), the components will normally be treated as individual, associated objects.

than 10 per cent of gold or silver is given in Appendix 3.) It is important to stress that only under certain circumstances are groups of coins likely to be regarded as coming from the 'same find': see paragraphs 14–16. Single coins will not be treasure, unless they are found in association with objects that are treasure, or unless there is exceptionally strong evidence that they were buried with the intention of recovery (see paragraph 9: for example, a single coin found in plough soil without any sign of a container would not provide such evidence). Section 3 (2) defines the term 'coin' as including any metal token that was, or can reasonably be assumed to have been, used or intended for use as or instead of money. This definition only includes coins and tokens made after the introduction of the first coinage into this country during the Iron Age period and excludes objects made earlier such as iron currency bars. Jettons or reckoning counters are also excluded from this definition.

**(iii) Objects found in association with objects that are treasure (section 1 (1) (d))**

8. any object, of whatever composition, that is found in the same place as, or that had previously been together with, another object that is treasure. The object may have been found at the same time as, or later than, the item of treasure (see paragraphs 14–16). However, unworked natural objects will not be treasure (see paragraph 13), even if they are found in association with objects that are treasure.

**(iv) Objects that would have been treasure trove (section 1 (1) (c))**

9. any object that would previously have been treasure trove, but does not fall within the specific categories given above. Only objects that are less than 300 years old, that are made substantially of gold or silver, that have been deliberately hidden with the intention of recovery and whose owners or heirs are unknown will come into this category. In practice such finds are rare and the only such discoveries that have been made within recent years have been hoards of gold and silver coins of the eighteenth, nineteenth or twentieth centuries. Single coins found on their own will not qualify

under this provision unless there is exceptionally strong evidence to show that they were buried with the intention of recovery: for example, a single coin found in plough soil without any sign of a container would not provide such evidence. Therefore gold and silver objects that are clearly less than 300 years old will not be treasure unless the finder has reason to believe that they may have been deliberately hidden with the intention of recovery.<sup>2</sup>

## II. Explanatory notes

### (i) Scope of the Act and the Order

10. The Act and the Order apply to objects found anywhere in England, Wales and Northern Ireland, including in or on land, in buildings (whether currently occupied or ruined), in rivers and lakes and on the foreshore (that is the area between mean high water and mean low water on beaches and tidal river banks), provided that the object does not come from a wreck (on which, see paragraph 17). However, if the original owner or his heirs can show that the object belongs to them, then their claim will be superior to that of the Crown. (For objects found on consecrated ground see paragraph 18.)

### (ii) Prehistoric objects

11. The Treasure (Designation) Order 2002 added to the definition of treasure prehistoric base-metal assemblages. These are groups (defined as one of at least two) of base-metal objects, other than coins, of prehistoric date, i.e. up to, and including, the Iron Age, from the same find. In this case, the 'same find' means closed groups of

<sup>2</sup> In addition, under the terms of section 2 of the Act, the Secretary of State has the power to designate as treasure classes of object which are at least 200 years old and which in the Secretary of State's opinion are of outstanding historical, archaeological or cultural importance, e.g. the Treasure (Designation) Order 2002. Section 2 of the Act also gives the Secretary of State a corresponding power to remove classes of objects from the definition of treasure. (This power to remove classes of objects from the definition of treasure applies both to those objects that are currently defined as treasure by the Act and to any class of object which may have been added to the definition by an order under section 2 of the Act.) An order made under this power will be made by statutory instrument which needs the approval of both Houses of Parliament under the affirmative resolution procedure. These powers cannot be used to apply retrospectively to an object which has already been found.

objects including scatters of contemporary metal types which may reasonably be interpreted as having originally been in a closed group. The most compelling criteria when judging a ‘closed group’ are (i) that there are known precedents for the close association of the given artefact types, and (ii) that follow-up excavation or investigation locates the original context (see also paragraph 14). If in any doubt, finders are advised to seek expert advice.

12. The Treasure (Designation) Order 2002 also added to the definition of treasure objects, other than coins, of prehistoric date, i.e. up to, and including, the Iron Age, any part of which is precious metal, regardless of the percentage of precious metal by weight of metal. This is likely to apply to relatively few finds which, in the main, are expected to fall into the discrete category of Bronze Age gold-covered penannular rings whose surface is gold over a base-metal core. The chief intention is to obviate the need for invasive and possibly harmful scientific analysis which might be necessary in order to establish the percentage of precious metal. In practice it is not expected that single prehistoric base-metal objects in which the precious-metal component is only a trace element would be claimed as treasure. Finders are reminded that under section 8 of the Act they are required to report only the objects they believe, or have reasonable grounds for believing, to be treasure. If in any doubt finders are advised to seek expert advice.

**(iii) Naturally occurring objects**

13. Unworked natural objects (such as fossils, minerals or human or animal remains) are not treasure (section 1(2) of the Act: see Appendix 1).

**(iv) Associated objects**

14. The Act states that an object is part of the ‘same find’ as another object if it is found in the same place as, or had previously been left together with, the other object (section 3(4) and 3(5) of the Act: see Appendix 1). It will be for the coroner’s inquest to establish these

facts and circumstances will vary from case to case. The coroner may seek advice from the finder and also from the finds liaison officer, a local archaeologist or museum curator identified in accordance with the local agreement described in paragraphs 41–44, or from a curator in a national museum, as to whether objects reported as treasure should be considered as coming from the ‘same find’. In deciding whether to report dispersed objects, finders are strongly urged to seek expert opinion and, if in any doubt as to the status of objects, to report them. In general, the definition of the ‘same place’ should be taken to mean a place of deposition where the contents of a hoard, purse or votive deposit (see paragraph 15) or a group of qualifying finds is either found in physical association or, if dispersed, may reasonably be supposed to have once been in physical association. Dispersal might, for example, occur through agricultural activity or construction work, through the burrowing of animals, or through other agencies. The current and previous use of the land where the find has been made will often be a determining factor. Association applies to a discrete group of objects but not to a whole site assemblage which comprises more than one discrete group. Thus, for example, the discovery of a silver brooch in an Anglo-Saxon grave could make the other non-precious-metal objects in that grave treasure. If the grave were part of a larger cemetery it would not of itself mean that all the other non-precious-metal objects in the cemetery were treasure, but this is without prejudice to the finder’s eligibility for a reward in respect of later finds after reporting an original find, as explained in paragraph 33. However, if there is any doubt as to whether an object is part of the same find as another object it will be for the coroner to decide.

15. So far as concerns finds consisting exclusively of coins, again any decision will be for the coroner, but only the following three categories will usually be considered treasure: (a) hoards, which have been deliberately hidden; (b) groups such as the contents of purses, which may have been dropped or lost and (c) votive or ritual deposits. In the case of votive deposits, the ‘same place’ (see paragraph 14) may include deposition in a well or sacred spring or

within a temple precinct, or within a similar location judged to be of ritual purpose. (All groups of fewer than ten base metal coins found on their own are excluded.) Assemblages of coins that may reasonably be interpreted as individual losses accumulated over a period of time and that were in all probability never deposited in physical association (for example those found on settlement sites or on fair sites) should not normally be considered treasure. Most hoards and purses are not associated with settlement or fair sites, although they may be.

16. A number of objects found over a period of time may qualify as treasure, including those that would not have been treasure but for an earlier find of treasure. The find may consist of different classes of objects and it will not need to have been found at the same time or by the same person. However, the Act does not have retrospective effect: for example, if a finder discovers first one coin on a particular site, which will not be treasure, and then subsequently discovers more coins on the same site, which will then qualify as treasure, the original discovery will not be considered as treasure. This applies regardless of whether the earlier find was made before or after the commencement of the Act. The duty to report such finds will rest with the finder who will have a legal duty to report a find if he believes or has reasonable grounds for believing it to be treasure (see paragraphs 23–6). The Sites and Monuments Record or the local finds liaison officer may have information concerning similar finds made in the same area in the past which may be relevant in determining whether the new find may be treasure (see paragraph 42).

**(v) Objects found on the foreshore (section 3(7))**

17. The Act applies to objects found on the foreshore (that is the area between mean high water and mean low water including along tidal rivers) and such finds will be eligible for consideration as treasure unless there is evidence that they have come from a wreck (see also paragraphs 10, 30 and foot-note to paragraph 79). If an object was originally deposited on land it may be treasure, provided that it qualifies under the definition of treasure set out in the Act (see

paragraphs 5–9); if it has come from a wreck then it may be subject to the salvage régime that applies to wreck under the Merchant Shipping Act 1995. The Receiver of Wreck must legally be notified of all property recovered following the loss of a vessel; and the salvor is entitled to a reward related to the value of the object either from the owner, if he can be identified or, failing that, from the Crown. The existing provisions of salvage law in relation to wreck are not affected by the Treasure Act.

**(vi) Objects found on consecrated ground**

18. The Government has given a commitment to the Church of England that it will bring forward an order under section 2 of the Act exempting objects found in association with human burials in a consecrated place and objects (except for treasure trove) covered by the Church of England's own legal systems of controls. The Church has indicated that all the objects will be dealt with under the ecclesiastical law in a manner that is analogous to that under the Act. The Government agreed to do this on the basis that the Church of England is in a unique position in having its own legal régime applying to moveable articles that belong to it and the purpose of the order is essentially to provide a clarification of the law in so far as it applies to such objects. Its scope will be limited to the Church of England (it is not expected that such cases will arise very often).

## D. Ownership of Treasure; Franchisees

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### (i) Ownership of treasure

19. Section 4 of the Act provides that treasure (as defined in section 1 of the Act) vests in the Crown or in the appropriate franchisee of the Crown, if there is one (see below), but the rights of original owners or their heirs, where known, are fully protected. The Act confirms that the Crown or the franchisee will enjoy the same rights over treasure as they did in respect of treasure trove. Objects that qualify as treasure under section 1 of the Act will be treasure irrespective of the circumstances in which they came to be in the place where they were found and, in particular, irrespective of whether they were lost, buried in a grave or abandoned.

### (ii) Objects found within treasure franchises

20. From time to time it has been the practice of the monarch to make grants of franchises of treasure trove to various individuals and bodies, although none has been made in recent times. The principal bodies that are believed to hold valid treasure trove franchises are the Duchy of Lancaster, the Duchy of Cornwall and the Corporation of London; the City of Bristol may also hold a treasure trove franchise. Section 5 of the Act states that those individuals and bodies who hold treasure trove franchises at the time when the Act commences will continue to enjoy the same rights in respect of treasure and it confirms that Her Majesty and the Duke of Cornwall are to be treated as holders of treasure trove franchises with regard to the Duchy of Lancaster and the Duchy of Cornwall respectively and that they will continue to be so treated after the commencement of the Act.
21. Section 10(8) of the Act makes provision for the holders of treasure franchises to request that the Secretary of State shall follow the guidelines set out below for the payment of rewards in respect of finds from areas for which they hold a franchise. The Duchy of

Lancaster has confirmed that, without prejudice to Her Majesty's right to treasure trove in Right of Her Duchy of Lancaster, they expect to follow the provisions of the Act and this Code of Practice in respect of any finds of treasure from their franchise. The Duchy of Cornwall has similarly confirmed that, without prejudice to The Prince of Wales's right to treasure trove in Right of His Duchy of Cornwall, they expect to follow the provisions of the Act and this Code of Practice in respect of any finds of treasure from their franchise. The City of Bristol has confirmed that, without prejudice to any rights enjoyed by Bristol City Council in respect of treasure trove, the City would expect to follow this Code in respect of any finds of treasure from any franchise that the City may enjoy. The Corporation of London has a long-held practice of paying rewards for finds of treasure trove and there is no expectation that the Corporation will wish to change this policy with regard to the additional categories of object that come within the scope of the Treasure Act.

22. Consequently, objects of treasure that are found within a treasure franchise should be reported by the finder to the coroner in the normal way and shall otherwise be dealt with according to the principles laid down in this Code, with the exception that the Museum of London will have the first right to acquire any finds of treasure made within the franchise enjoyed by the Corporation of London and Bristol Museums and Art Gallery will enjoy a similar right in respect of any finds of treasure made within any franchise that may be enjoyed by the City of Bristol (see paragraph 63 (1)). Section 6 of the Act gives the Secretary of State the power to disclaim treasure (see paragraphs 48–52); although this power does not specifically apply to franchise-holders, they may choose to follow this practice if they wish. Finds from the Corporation of London's franchise and from any franchise that may be enjoyed by the City of Bristol may be disclaimed by the Corporation of London on the advice of the Museum of London, or by the City of Bristol on the advice of Bristol City Museum and Art Gallery and these museums may consult the national museum if they wish. Finds from the

franchises of the Duchy of Lancaster and from the Duchy of Cornwall may be disclaimed by Her Majesty and The Prince of Wales on the advice of the national museum, following the procedure in paragraph 49.

## E. Guidance for Finders and Others Concerned with Treasure

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### I. The requirements of the Act: the duty to report finds (section 8)

23. Section 8 of the Act states that a person who finds an object which he believes or has reasonable grounds for believing is treasure must notify the coroner for the district in which the object was found before the end of the notice period, which is 14 days beginning with the day after the find or, if later, the day on which the finder first believes or has reason to believe the object is treasure. Paragraphs 38–44 provide guidance on how finds should be reported and a list of coroners with addresses and telephone numbers is given in Appendix 2. It is important to stress that the Act requires a finder to report his find within 14 days of his making the find or within 14 days of his realising that the find was treasure but not necessarily to deliver it within that period. If a finder discovers an object that he does not immediately believe to be treasure but learns subsequently that it may be treasure, for example, after cleaning it (see paragraph 47 and Appendix 4 for advice on the care of finds), or examining it more closely at a later date, or after describing or showing it to others, or after reading the appropriate literature, or after having it identified by a museum, then he should report it within 14 days of realising that it may be treasure.
24. It is a criminal offence, punishable by a maximum term of imprisonment of three months or a fine not exceeding level 5 (currently £5,000), or both, not to report a find of treasure to the coroner. It is, however, a valid defence to a prosecution for non-declaration of treasure if the defendant can show that he had a 'reasonable excuse' for failing to notify the coroner. The court will take account of the circumstances of the individual concerned when deciding whether a finder has 'reasonable grounds' for believing an object not to be treasure or a 'reasonable excuse' for not reporting treasure. For example, in considering a case, a court may take into

account whether the finder could have been expected to know that his find was treasure.<sup>3</sup> Where it is alleged that a criminal offence has been committed under the provisions of the Act, it will always be for the prosecution to prove their case beyond reasonable doubt.

25. If finders are in any doubt as to whether any of the objects they have found are treasure they are strongly advised to report them (see also paragraph 38). Finders are in any case strongly urged to report all archaeological objects under the Portable Antiquities Scheme (see above, paragraph 3). The duty to report lies with the individual who made the find and this duty to report applies to everyone, including archaeologists. However, in the case of an archaeological excavation or investigation, it may be convenient for one member of the excavation team to take the responsibility for ensuring that the coroner is informed about all finds of potential treasure made during the course of the excavation or investigation. A finder who authorises a third party, such as a finds liaison officer or a local museum officer, to report the find on his behalf, is reminded that the duty to ensure that this has been done remains with the finder. Any person, other than the finder, who comes into the possession of an object he believes to be treasure, but which he believes has not been reported, should report it promptly to the coroner of the area in which the find was made, or to his local coroner if he does not know where the find was made. This also applies to anyone participating in metal detecting rallies; if the rally organiser or some other third party offers to make the report to the coroner on his behalf, it remains the duty of the finder to ensure that this has been done (see also paragraph 26). Anyone in possession of unreported treasure, whether he is the finder or not, may be committing an offence under the Theft Act 1968 by remaining in possession of such a find. If in doubt as to whether the suspected treasure has been reported, the Treasure Registrar at the British Museum should be consulted or, for cases in Wales, the National Museums & Galleries of Wales (see Appendix 2).

<sup>3</sup> This matter was discussed in the Parliamentary debates on the Treasure Bill: see the statements of the Minister of State, Mr Iain Sproat, reported in Hansard, House of Commons, 8 March 1996, col. 579 and 10 May 1996, cols. 587–8.

The coroner may exercise his duty to inquire into reports of treasure and may conduct such inquiries regardless of the circumstances under which the report was made or by whom it was made.

26. As regards finds of potential treasure made at detecting rallies, if a person finds an object that qualifies as treasure on its own, then that person has a duty to report the object. If, however, it seems that, for example, a dispersed hoard of coins has been discovered and that several individuals have discovered coins from the hoard, the individual finders have a duty to report their finds and the rally organiser or the finds recorder should tell them that this is the case. All organisers of metal detecting rallies should ensure that all participants in the rally are aware of their obligations under the Treasure Act.

## **II. Guidance**

### **(i) Searching for artefacts**

27. The Government recognises that metal detectorists have been responsible for discovering many objects of great importance for the nation's heritage and this Act is not intended in any way to restrict the activities of responsible, law-abiding detectorists.
28. The Government strongly recommends metal detectorists to join a recognised metal detecting club or organisation in order to take advantage of the wider knowledge of a group and so that they can most effectively be informed about the Treasure Act and Code of Practice and the Portable Antiquities Scheme for the voluntary recording of all archaeological objects. Special steps are taken to draw the provisions of the Act and this Code to the attention of those metal detectorists who choose not to join a metal detecting organisation.
29. The Government urges all metal detectorists to abide by the National Council for Metal Detecting's Code of Conduct (see Appendix 6) and by a code of practice which includes, as a minimum, the following provisions and advice:

- (i) Do not trespass; obtain permission to search from the landowner, regardless of the status, or perceived status, of the land; bear in mind that all land, including beaches, has an owner. To avoid subsequent disputes it is advisable to get permission in writing.
  - (ii) Do not trespass or detect (with or without the landowner's permission) on scheduled sites or areas designated as of archaeological importance (see foot-note to paragraph 31), and do not damage other known sites, especially newly discovered ones; seek advice from the local finds liaison officer, local museum or Sites and Monuments Record if in doubt. Remember it is illegal for anyone to use a metal detector on a scheduled ancient monument unless permission has been obtained.<sup>4</sup>
  - (iii) Make contact with the local finds liaison officer, archaeologist or museum.
  - (iv) Ideally, join a recognised detecting club or national detecting organisation.
  - (v) Familiarise yourself with and abide by the provisions of the Treasure Act and Code of Practice, recording arrangements under the Portable Antiquities Scheme and export licensing rules.
  - (vi) Always report promptly, and in any case within 14 days, any object suspected of being treasure and deposit it as directed by the coroner.
30. It is important to stress that all those intending to search for objects or to undertake archaeological excavations or investigations that may lead to the discovery of such objects must obtain the necessary permissions. Even in the case of publicly-owned land, it cannot be assumed that detectorists will automatically have the right to search there. For example, some local authorities have specific policies restricting the use of metal detectors on their land and finders should always satisfy themselves that they have permission before searching on any council-controlled land. As regards finds made on

<sup>4</sup> In England permission can only be given by English Heritage and, in Wales, by Cadw (see paragraph 31).

the foreshore (that is the area between mean high water and mean low water) finders should be aware that the status of foreshore land is the same as that of other land; some beaches which are leased by local authorities require licences for metal detecting (see also footnote to paragraph 79). For example, on the Thames foreshore licences to search are granted by the Port of London Authority on behalf of the Crown Estate. All objects found on the Thames foreshore must be reported to the Museum of London, and suspected treasure must also be reported to the coroner. Finders should be aware that the Crown Estate is currently claiming its share of rewards for treasure found on its land.

31. If there is evidence that the finder has been trespassing or that he has made his find in a 'protected place' without the written consent of English Heritage or, in Wales, of Cadw, he may expect to receive no reward at all or an abated reward, in accordance with the principles laid down in paragraph 79 and, further, he may be liable to prosecution under the Ancient Monuments and Archaeological Areas Act 1979.<sup>5</sup>
32. Anyone who intends to search for artefacts is strongly recommended, when seeking permission to search, to make an agreement (preferably in writing) with the occupier and the landowner (if different) as to how any reward should be divided between them (see also paragraph 81).
33. If searching on cultivated land, metal detectorists should take care to recover items only from the plough-soil. If they discover something large (for example, in a container), unusual or below the plough-soil they are strongly recommended to obtain appropriate archaeological help. Finds may be associated with features that are not immediately visible, such as a pit or building. If individual objects are removed

<sup>5</sup> Under section 42 of the Ancient Monuments and Archaeological Areas Act 1979 it is an offence to use a metal detector in a protected place without permission. A 'protected place' is defined by the 1979 Act as (a) the site of a scheduled ancient monument; (b) any monument under the ownership or guardianship of the Secretary of State or a local authority by virtue of the Act and (c) a place situated in an area of archaeological importance (at present the only areas that are so designated are the historic centres of the following five towns: Canterbury, Chester, Exeter, Hereford and York).

from these positions without archaeological supervision the chance to understand and date the feature may be lost. Similarly, archaeological involvement at this stage may help to discover why the object was put there in the first place. It may also be in a finder's interests to obtain appropriate archaeological help in excavating unusual or fragile finds. If, while removing an object from the ground, a finder were, deliberately or recklessly, to cause significant damage either to the actual object or to a surrounding monument or to the archaeological deposits making up the contexts which may explain the circumstances in which the object became buried or concealed, then (aside from any civil or criminal liability on the finder's part) the infliction of such damage will be reflected in any *ex gratia* reward that may be payable in respect of the find (see paragraph 79 (viii)). If a finder does not remove the whole of a find from the ground but reports it, thus affording the opportunity for the archaeological excavation of the remainder of the find, the original finder will normally be eligible for a reward for the whole find and not just that part which he himself had removed from the ground, although the Secretary of State will need to examine the individual circumstances of each case (see paragraph 78). Local agreements provide advice on how to obtain help; alternatively, the local finds liaison officer, Sites and Monuments Record or local authority archaeologist will be able to give advice: see lists in Appendix 2.

34. Finders are also recommended, where possible, to note information such as where the find was made, how deep the find was, whether the find-spot is on cultivated land or under grass and anything else they have found or noticed in the ground (such as metal objects, pottery fragments or building rubble) in the surrounding area at the time of the discovery or previously. Keeping a visual record would also be useful.
35. The great majority of known archaeological sites are not 'protected places' under the 1979 Ancient Monuments and Archaeological Areas Act (see paragraph 31). Although there are no legal restrictions on metal detecting on such sites, the Government

strongly recommends to all metal detectorists that, if they do find significant archaeological objects that are not treasure on a particular site, they should consult the local finds liaison officer, local authority archaeologist in England (or, in Wales, the Regional Trust) responsible for the Sites and Monuments Record or the local museum to ensure that they will not be causing damage or loss of archaeological evidence on a known archaeological site that is registered on the Sites and Monuments Record.<sup>6</sup> The archaeologist or museum will in any case welcome such information. A list of all Sites and Monuments Records is given in Appendix 2.

36. It is recognised that there will be occasions when the reporting of finds by detectorists from unscheduled sites will lead to an archaeological investigation of the site, with the landowner's and/or the occupier's permission, and that very occasionally such investigations may lead to the discovery of significant archaeological remains, so that it may be desirable to suspend further independent or group metal detecting on that site for a fixed period of time. Where this happens, archaeologists should ensure that the detectorist who originally reported the find is kept fully informed, by explaining to him what subsequent archaeological action will be taken, by sharing with him the new understanding that results from the find and by giving the original finder due acknowledgement for his discovery in any subsequent publication of the find.

<sup>6</sup> Concern has been expressed by metal detectorists that if they report finds from a site then it might lead to the site being scheduled with the result that they would no longer be allowed to detect there. However, it is very unlikely that new detector finds on their own will lead to a site being scheduled. Scheduling is carried out systematically under the Monuments Protection Programme, by which English Heritage is reviewing England's archaeology and making recommendations for scheduling to the Secretary of State for Culture, Media and Sport. To qualify for scheduling, a site must meet very stringent criteria in order to satisfy the Secretary of State that, in accordance with the legislation, it is of national importance and that its management and protection is best achieved by the controls of the scheduled monument system. Isolated detector finds on their own do not provide sufficient justification for scheduling, although such sites may be scheduled if other, more detailed, archaeological information about them exists. In any event, only a small proportion of the total number of known archaeological sites will be scheduled. At present (2002) there are about 18,000 scheduled monuments and the Monuments Protection Programme is likely to increase this to no more than about 32,000 monuments. This will represent less than 10 per cent of the currently known monuments, sites and find-spots, and many scheduled monuments are buildings which are totally unsuited to detecting.

Archaeological bodies are urged to co-operate in this way because the logic of the Portable Antiquities Scheme for the voluntary recording of all archaeological finds (see paragraph 3) is that it should be based on co-operation between archaeologists and metal detectorists. English Heritage has an active policy of supporting investigations of archaeologically-significant find-spots.

37. Archaeologists should give the finder the opportunity to be actively involved in any future archaeological investigation of the site where the find was made, wherever practicable. The finder should be given full acknowledgement for his discovery in any publication of the find.

**(ii) Reporting finds of treasure; local agreements**

38. The Government recognises the need to make it as easy as possible for finders to fulfil their legal obligations under the Act. Finders are required to report their finds to the coroner for the district in which the find was made and this may be done by contacting the appropriate coroner (see Appendix 2). Such a report may be made in person, by letter, by fax or telephone, or by email. (Where a person other than the finder is making the report see paragraph 25.) The coroner or his officer will give or send the finder a written acknowledgement that he has reported the find and will give instructions as to where the finder should deliver his find. This could be to the coroner himself or, in most instances, to a finds liaison officer, a museum or to a local authority archaeological service or other appropriate archaeological organisation, in accordance with the terms of the local agreement outlined in paragraph 41. The coroner will copy the relevant documentation to that body which will copy it to the relevant national museum (see also paragraph 55). Finders are reminded that, until the find is deposited, they have a common law duty of care as bailees of the find and have further obligations in private law not to dispose of the object(s) and not to delegate responsibility for its care to another person, other than the local reporting centre, except as directed by the coroner. In any case of reluctance to deposit as directed, coroners may seek to obtain a witness summons from the

court directed to the witness (the finder) to bring the find to court. Alternatively, the coroner may rely upon common law powers to take possession of objects believed to be treasure.

39. The coroner or the body receiving the object on behalf of the coroner will give the finder a receipt, which should be in the form specified in the Treasure Receipt Form, when delivering his find (see Appendix 5). This receipt should specify the following:
- (a) details of institution receiving find with contact name, telephone number and email address of institution;
  - (b) details of local museum or collecting area (if different from receiving institution);
  - (c) name, address, telephone number and email address of finder(s);
  - (d) name, address, telephone number and email address of occupier of the land where find was made;
  - (e) name, address, telephone number and email address of owner of the land where find was made (if known);
  - (f) name, address, telephone number and email address of franchisee (if any and if known);
  - (g) date when the object(s) was found;
  - (h) circumstances of the find;
  - (i) a note of exactly where the object(s) was found: a precise location will be needed, to the equivalent of at least a six-figure grid reference wherever possible. (Since this information will be kept confidential, it may be advisable to keep a separate record of it: see paragraph 46);
  - (j) brief description of the object(s) together with a note of its condition. (In some cases it may be best if the body receiving the find were to do this by means of a photograph);
  - (k) name, telephone number and email address of coroner or coroner's officer (as appropriate);

- (1) name, telephone number and email address of Treasure Registrar at the British Museum, or contact at the Department of Archaeology and Numismatics at the National Museums & Galleries of Wales, from whom information can be obtained about the progress of the find.
40. With regard to any loss or damage to suspected treasure after it has been deposited, receiving institutions should have regard to paragraph 62 below. Such institutions should also look to their own arrangements, agreed with their governing authorities, for dealing with loss or damage to objects in their care. The Treasure Valuation Committee may be invited to assist in the valuation of such finds, where an adequate record exists.
  41. For each coroner's district in England and Wales, there are local agreements between coroners, finds liaison officers, local government archaeological officers (in Wales, the Regional Archaeological Trusts) and local or national museums, as appropriate, for the delivery of finds of treasure in each area and how local metal detecting organisations are informed of those arrangements. From December 2003, when a national network of finds liaison officers will have been established across the whole of England and Wales, the finds liaison officers will provide the primary point of contact for finders regarding treasure finds. However, there is in addition a network of other museums and archaeological services to which finds can also be reported and these are listed in Appendix 2. These arrangements are publicised locally (see Appendix 2 for details); and the Department for Culture, Media and Sport (020 7211 6000) and the Treasure Registrar at the British Museum (020 7323 8611), and, for Wales, the National Museums & Galleries of Wales (029 2039 7951), also maintain a complete record of all such arrangements. Further sources of advice are given in Appendix 2.
  42. One of the chief aims of such local agreements is to ensure, wherever possible, that the location and context of each find of potential treasure is, where appropriate, immediately inspected, accurately pinpointed and recorded and that the recovery process does not

cause damage or loss to the preservation or understanding of the national heritage (see also paragraph 33). It is also necessary to ensure that the appropriate Sites and Monuments Record is informed at the earliest possible opportunity (see list in Appendix 2). This will be done by the local reporting centre. The Sites and Monuments Record may contain information concerning similar finds made in the same area in the past which may be relevant in determining whether the new find may be treasure (see paragraph 16). The Sites and Monuments Record will take great care when releasing information about the location of find-spots.

43. Another aim of such local agreements is to ensure that the instructions given by coroners to the finders as to where they should deliver their finds will be, so far as possible, convenient to all parties. It is recognised that some finders may wish to show their finds at metal detecting clubs which may meet monthly and this will still be possible, with the agreement of all concerned, as long as the reporting requirements have been met.
44. According to the agreement that has been reached in each coroner's district, the coroner will generally direct a finder who has reported a find to take it to the finds liaison officer, local museum curator or a local authority archaeological officer (or an archaeological unit) who will be able to provide a preliminary opinion as to whether an object that a finder believes may be treasure is likely to be treasure. The finds liaison officer, local museum curator or archaeological officer will be able to return those objects that, in his opinion, are clearly not treasure, either in their own right or by association, to the person who has reported them, with the permission of the coroner. The finds liaison officer, museum curator or archaeological officer will then give his opinion on the objects to the coroner and, where his opinion is that the object is not treasure, it will not normally be necessary to hold an inquest. Alternatively, such objects may be disclaimed (see paragraph 49). The national museum will be able to provide advice where experienced advice is not available locally and in addition the national museum must be

informed if the finds liaison officer, local museum curator or archaeological officer believes that the find may be treasure (see paragraphs 49 and 54 for more details on the procedure to be followed in such cases). The finds liaison officer, local museum curator or archaeological officer should prepare a brief written report on all objects, whether believed to be treasure or not. They should also inform the local finds liaison officer for the area (where one has been appointed, and if not involved already) so that all finds may be recorded under the Portable Antiquities Scheme.

45. If an object that may be treasure is shown to a person other than the coroner, a finds liaison officer, a museum or a local government archaeological officer, such as a dealer, then that person should remind the finder of his legal duty to report the object to the coroner. However, the obligation under the Act to report finds rests with the finder alone. Dealers should abide by the codes of their professional organisations (in particular the British Art Market Federation, the Antiquities Dealers Association, the British Association of Antique Dealers, the British Numismatic Trade Association, LAPADA (the Association of Art and Antique Dealers) and the Society of Fine Art Auctioneers) and they should bear in mind that if they acquire, whether knowingly or unknowingly, an object that is treasure or that turns out to be treasure and that has not been disclaimed or returned, they have no title to it. Furthermore, they may have committed an offence under the Theft Act 1968 if they possess unreported treasure. If in doubt as to whether or not suspected treasure has been reported, they should consult the Treasure Registrar at the British Museum or the National Museums & Galleries of Wales (see paragraph 25 and Appendix 2). The Government appreciates the need to make information about finds that have been disclaimed or returned easily available in order that dealers may avoid unwittingly purchasing undeclared objects. When they sell objects that have either been reported as potential treasure and disclaimed or which have been declared to be treasure at a coroner's inquest and returned because no museum acquired them, dealers and auction houses are urged to include a note to this effect whenever the object is described in an

auction catalogue or sales list. In paragraph 51 it is recommended that the relevant documentation should be kept with the object. In any case, a provenance normally enhances the value of such an object.

46. In order to preserve the integrity of the site of the find for possible further archaeological investigation and to deter trespassers, it will not be necessary for the coroner or other authorities to report publicly the precise location of the find, either during an inquest or otherwise. As a general guideline, the civil parish or else a four-figure national grid reference (one square kilometre) will be sufficient in most cases, although in particularly sensitive cases a more general description of the location may be appropriate. The landowner's views will also be taken into account in this matter. However, the finder should report the precise find-spot of his find to the coroner (wherever possible to the equivalent of at least a six-figure national grid reference) and failure to do so may be taken into account when determining any reward for which the finder may be eligible (see paragraph 79 (iv)). This information will be treated as confidential by the coroner, by those institutions from whom the coroner has sought advice and by the Sites and Monuments Record.

### **(iii) Advice on the care of finds**

47. Some materials, when removed from the ground, can be identified without cleaning; examples are pure gold or silver-gold alloys. If an object has changed in appearance as a result of having been buried in the ground, it may still be possible to identify the material from a visual examination or from comparison with other similar objects. Further information on how to identify altered materials without cleaning is given in Section 2 of Appendix 4. Soil and corrosion concretions around objects may contain important evidence about how the object was made or used and about the environment at the time of deposition. Corrosion and soil concretions should be left undisturbed and the professional advice of an experienced archaeological conservator should be sought. Inappropriate cleaning can reduce the value (both archaeological and commercial) of finds. Where cleaning occurs, the finder gains nothing by way of an

increased commercial value as reflected in the reward and may risk a reduction of the reward by virtue of the cleaning (see paragraph 79 (viii)). Further information on the care of finds and sources of advice are given in Appendix 4. See also paragraph 56.

## F. Secretary of State's Power to Disclaim Objects

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48. Under Section 6 of the Act the Secretary of State has the power to disclaim objects that have been submitted as potential treasure. Since it is anticipated that museums will not wish to acquire all of the objects that will qualify as treasure, this provision means that it will not normally be necessary to hold treasure inquests in such cases. For objects found within treasure franchises see paragraph 22.
49. Although the Secretary of State will be able to use this power at any stage once a find of potential treasure has been reported to the coroner, the normal procedure will be as follows. All finds of potential treasure must to be reported to the coroner. The coroner will then seek advice either from the relevant local source (the finds liaison officer, local museum, local authority archaeological officer or archaeological unit) or from the national museum, in accordance with the arrangements that have been agreed for each coroner's district (see paragraphs 41–44). The finds liaison officer, local museum or archaeological officer and the national museum should agree whether to advise the Secretary of State that the object should be disclaimed; in some cases it may be necessary for the object to be delivered to the national museum for further study and it is noted in paragraph 54 that the national museum can also provide specialist conservation or metallurgical analysis. The finds liaison officer, local museum or archaeological officer and the national museum will also consult any other museums registered with Resource: The Council for Museums, Archives and Libraries that they believe may have a potential interest in acquiring the find (see also paragraph 63). If, as a result of this process of consultation, no museum wishes to acquire the object(s), then the national museum will advise the Secretary of State that the Crown's interest in the find should be disclaimed, and the Department for Culture, Media and Sport will inform the local museum, the coroner and the finder. The coroner will not then need to proceed with an inquest and will take the steps set out in paragraph 50. If information about the find has not already been

passed on to the appropriate finds liaison officer and Sites and Monuments Record (see list in Appendix 2), then it will be done at this stage (see paragraph 42). Only a complete find (for example, a complete coin hoard) may be disclaimed in this way; if a museum wishes to acquire any objects from a find, then the whole find will need to be considered at a treasure inquest.

50. Any objects disclaimed in this way will be treated as though they had never been treasure and will be returned by the coroner. The coroner will give notification to the occupier and the landowner (if different) that he intends to return them to the finder not less than 28 days after the date of his notification unless he receives an objection from either of them. If no objection is received, the coroner will inform the national museum and authorise the reporting centre in writing to release the find; the reporting centre will then return the find and inform the coroner in writing that the find has been released. If the coroner receives an objection, the find will be retained by the coroner, or by the body to whom he has entrusted it, pending the resolution of the dispute between the parties. The coroner does not have the power to make a legal determination as to title as between the occupier, the landowner and the finder, and this question will, if necessary, need to be resolved in the courts.
51. It is recommended that a record of the coroner's findings and documentation relating to the disposal of the object should be kept with it. The person to whom objects have been returned in this way will, in the absence of a direct legal claim, be free to dispose of them as he wishes. However, all such objects will require an export licence from the Department for Culture, Media and Sport if they are to be exported abroad. Application forms for export licences may be obtained from the Cultural Property Unit of the Department for Culture, Media and Sport (020 7211 6000).
52. The procedure outlined in paragraphs 49–51 may also be followed in the case of objects such as those from archaeological excavations (where no reward is payable to the finder) provided that this is done in accordance with a pre-existing agreement between the parties

concerned and provided that the Secretary of State is satisfied with the arrangements for their disposal. Such finds should also be reported to the coroner in the normal way and the coroner should be informed of the outcome. (See also paragraph 81.)

## G. Procedure when a Find has been reported to the Coroner; Treasure Inquests

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53. Detailed guidelines on the procedure to be followed by coroners in treasure inquests are set out in a Home Office Circular. This section of the Code is intended to summarise the main points insofar as they affect those who are likely to have an interest in treasure inquests (finders, occupiers, landowners, museums etc.).
54. The coroner will hold an inquest on any find that has been reported to him and that he has reasonable grounds for believing to be treasure, except where the find has been disclaimed by the Secretary of State. On the other hand, it is expected that all those finds that no museum wishes to acquire will already have been disclaimed under the procedure laid down in paragraph 49, so it will effectively only be necessary to hold inquests on those finds that a museum wishes to acquire. A report on the find will be prepared for the coroner by national and local archaeologists in conjunction, as appropriate (see paragraph 44).<sup>7</sup> The coroner is required by the Act to inform the national museum if he intends to hold an inquest. In addition, the national museum will be able to provide specialist conservation and analytical facilities. Where necessary the coroner will make arrangements for the object to be delivered to the national museum. However, the coroner may ask the national museum to make arrangements regarding the delivery of fragile objects.
55. The body which is providing advice to the coroner in accordance with paragraph 54 will give the coroner a written report giving brief details of the objects together with an assessment as to whether they fall within the definition of treasure and, if so, on what grounds. Museums should complete reports according to the original report to the coroner, being careful to adhere to any numbering or other identification system already allocated. They should report within

<sup>7</sup> In the case of finds from Wales, the coroner will normally ask for a report from the National Museums & Galleries of Wales.

three months or within a period of time that will allow the target times set down in paragraph 87 to be met. However, in exceptional cases, e.g. large hoards of coins, it may be necessary to exceed this period. Local reporting centres must always first consult the national museum if they propose to provide the report to the coroner. The report will not contain a valuation of the objects. This report will normally be made available to the finder and the landowner/occupier by the Treasure Registrar or the National Museums & Galleries of Wales.

56. In the case of objects other than coins, it may be necessary to obtain a scientific analysis, wherever possible without sampling, of one or more objects from the find in order to determine whether they fall within the definition of treasure under the Act. It will not normally be necessary to obtain an analysis of the metal content of coins. In some cases it may also be necessary to clean the objects so that they can be identified (see Appendix 4, section 6). The body providing the report should first obtain the permission of the coroner to proceed with any potentially invasive procedure which it judges could lead to damage to the object.
57. The coroner has the duty of notifying the finder, the occupier and the owner of the land where the find was made of the place and date when he intends to hold an inquest. He is also requested to inform the local museum and the franchisee (if any, and if known). The finder, occupier and landowner will be given an opportunity to examine witnesses at the inquest and may, according to the coroner's discretion, be represented at the inquest. Since it may not always be straightforward for the coroner to discover the identity of the landowner, the Act requires the coroner to ask the finder or the occupier who the landowner is and the coroner will then take reasonable steps to ensure that he is informed.
58. The inquest will be held without a jury unless the coroner, at his discretion, decides otherwise. In some cases the Crown and/or the national museum and/or the local museum or local archaeological officer (as identified in paragraph 54) or finds liaison officer may wish to be represented at the inquest. However, at the coroner's

discretion, where all parties have indicated that they do not wish to attend, the inquest may proceed using written evidence only which may include sworn statements. The recommendation in paragraph 46 about the desirability of keeping find-spots confidential applies. Neither the precise location of find-spots nor details (e.g. addresses and telephone numbers) of the finder, occupier or landowner, should be made public at the inquest.

59. If an object is found not to be treasure as a result of an inquest, then it will be returned by the coroner according to the principles set out in paragraph 50 on the return of objects that have been disclaimed. The recommendation in paragraph 51 that relevant documentation be kept with the object and the conditions regarding the export of such objects also apply. The coroner will be informed by the Department for Culture, Media and Sport about the decision taken by the Secretary of State in relation to the objects with which he has been concerned.
60. If a find is declared treasure the coroner will inform the national and local museum (or reporting centre, if different), the finder, landowner, occupier and franchisee (if any, and if known). If the coroner is advised that a museum may wish to acquire either the whole find or an object from it, the coroner will arrange for the find to be delivered to the national museum so that it can be valued by the Treasure Valuation Committee. (However, the coroner may ask the national museum to make arrangements regarding the delivery of fragile objects.) The coroner should keep records of treasure inquests in a standard format.
61. The decision of the inquest will be subject to the jurisdiction of the courts by way of judicial review. In certain circumstances coroners' inquests may also be reviewed under section 13 of the Coroners Act 1988.
62. The coroner or the body into whose care a find reported as treasure has been entrusted will take reasonable steps to ensure its safe custody and, in the event of an object being lost or damaged, except

by the negligence of the party concerned, the Secretary of State may make an *ex gratia* payment to the person or persons to whom a reward would have been paid under the guidelines contained in paragraphs 71–85 of this code, subject to a lower limit of £100.

## H. Acquisition of Treasure

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63. The current practice is that objects that are declared treasure are offered in the first instance by the Secretary of State to the national museum and that if the national museum does not wish to acquire the objects it offers them to other museums. The following procedures and principles will be followed by the national museum in dealing with finds of treasure:

- (1) The Museum of London will have the first right to acquire any finds of treasure made within the franchise enjoyed by the Corporation of London. Bristol Museums and Art Gallery will enjoy a similar right in respect of any finds of treasure made within any franchise that may be held by the City of Bristol.
- (2) Finds of national importance should be kept intact and will normally be acquired by the national museum. In England, it is expected that only a small proportion of finds of treasure will normally be classed as being of national importance. The national museum will consult the local registered museum<sup>8</sup> over such finds. In the event that a find of regional or local interest cannot be acquired by the local registered museum or by another registered museum, the national museum may then consider acquiring it.
- (3) In the case of other finds not of national importance there may also be good reasons both academically and archaeologically for keeping them intact. If the local registered museum wishes to acquire such a find intact, then it will have the opportunity to do so; if the local museum does not wish to acquire the find intact it may be offered to another registered museum in the United Kingdom with a relevant interest in the objects contained in the find. When considering to which local registered museum a find will be offered, account will be taken of the collecting areas and

<sup>8</sup> This museum will already have been identified under the procedure outlined in paragraphs 41–44 and 49.

collecting policies of any interested local museums. It is hoped that the relevant authorities will resolve all outstanding issues with regard to museum collecting policies and areas in England and Wales. The documentation relating to the find will be copied to the museum that acquires it.

- (4) If no museum wishes to acquire the find intact, then one or more of the museums listed in (2) above may wish to select some of the objects from the find for their collections by mutual agreement. Those objects that are not required by museums will be returned by the coroner according to the principles laid down in paragraph 50. The documentation relating to the whole find will be copied to each museum that acquires objects from the find.
- (5) There is a presumption that objects of treasure found during the course of archaeological excavations or investigations will be kept with the rest of the archaeological archive. Archaeologists are strongly recommended to secure curatorial provision and identify repositories for site finds before excavation or investigation begins.
- (6) A find from consecrated land that would have qualified as treasure trove under the common law of treasure trove, and which therefore falls outside the scope of the order described in paragraph 18, will be offered to a local church museum (if there is one) if the national museum does not wish to acquire it.
- (7) If finders and anyone else with an interest in the find wish to waive their right to a reward on condition that the find is deposited in a particular registered museum, their wishes will be taken into account.
- (8) The references to 'registered' museums above are to museums with registration from Resource: The Council for Museums, Archives and Libraries.
- (9) The Department for Culture, Media and Sport's predecessor, the Department of National Heritage's review of museum

policy, *Treasures in Trust*, was based on the premise that ‘a museum’s collections are to be held on behalf of the public as inalienable cultural assets’ (3.2) and this applies to acquisitions of treasure. Any museum that acquires treasure may only dispose of it in accordance with the registration guidelines of Resource: the Council for Museums, Archives and Libraries (paragraph 4.2.5), and in accordance with any conditions on disposal imposed by any grant-awarding bodies which may have assisted in the acquisition of the object.

- (10) It is expected that museums that acquire finds of treasure will generally wish to place them on exhibition. However, where finds of treasure are not on exhibition finders and any other interested members of the public will have access to them on request, in accordance with Resource’s registration guidelines. Where treasure has been acquired with external financial help, this should be acknowledged appropriately, with the consent of those concerned, for example in museum labelling and publications.
64. Where a museum needs to seek external funding for all or a proportion of the amount necessary to acquire treasure, it may wish to apply to the Art Fund, the Heritage Lottery Fund, the National Heritage Memorial Fund or, in the case of local museums, to the Victoria and Albert Purchase Grant Fund (see Appendix 2 for details of grant-giving bodies).

## I. Valuation of Treasure

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65. The Government strongly reaffirms the principle behind the establishment of the Treasure Trove Reviewing Committee, which was established in 1977 to provide independent scrutiny of valuations of finds of treasure. The Committee was renamed the Treasure Valuation Committee in 1997 in order to reflect more accurately its role. Its terms of reference are to recommend to the Secretary of State valuations for the items brought before it which correspond as closely as possible, taking account of all relevant factors, to what may be paid for the object(s) in a sale on the open market between a willing seller and a willing buyer; and to provide advice to the Secretary of State in cases where there may be grounds for either no reward to be paid to the finder, or for a reduced reward to be paid, or where there is a dispute as to the apportionment of the reward between the finder and the occupier/owner of the land or between the occupier and a person having a superior interest (see paragraphs 69 and 76). The Committee will issue from time to time guidance on the valuation of finds, and finders and valuers should take account of this.
66. However, the Government recognises that it is important not just that the valuations agreed by the Committee should be fair but that they should be seen to be fair. Therefore, in order to ensure the widest possible confidence in treasure valuations, the Committee commissions reports from independent experts drawn from the trade on all finds that come before it; the reports submitted by the national museums do not contain valuations but simply contain a description of the objects. In most cases of treasure the valuations will be straightforward and it will be sufficient for the Committee to commission a single valuation, basing its decision on that valuation and its own expertise. But the Committee has the discretion to commission more than one valuation where it deems it to be desirable, for example, in cases of particularly high value and rare objects, and in all cases will rely on its own expertise in evaluating

them and arriving at a recommended valuation figure. Any enquiries relating to those valuations should be directed to the Secretary of the Committee. Objects will not be valued prior to inquest nor will the Committee adopt a minimum valuation threshold. The valuation will be as at the time of finding of the object and in the condition in which it was found (see also paragraph 47). It is expected that the Committee will be aware of the potential value of the object in its conserved state, after the deduction of notional cleaning and conservation costs. A valuation cannot be altered retrospectively in the light of a subsequent find. The valuation of newly discovered objects from a previously examined find may take account of that previous discovery.

67. All interested parties (finders, occupiers and landowners, and any museum that intends to acquire objects from the find) are given the opportunity to make relevant comments on these valuations and on the reports of the national museums before the Committee reaches its decision; in addition, finders, occupiers, landowners and museums have the right to submit their own evidence to the Committee. Such evidence may be in the form of valuations commissioned by these parties. The Committee reserves the right to adopt safeguards to ensure the reliability of the parties' valuation evidence; for example, greater weight will be given to that from a valuer who belongs to a relevant recognised trade association with its own professional code. Objects will normally be valued at the first Committee meeting to be held after the Committee's commissioned valuation has been received. However, if the parties require more time, a maximum of 28 days can be allowed for them to submit their own evidence before the Committee meets to decide on its recommendation. Finders are recommended to retain a photographic record of the object to assist in any independent valuation they may commission.
68. It is important to bear in mind that a finder who fails to report a find of treasure in contravention of section 8 of the Act and sells it to a dealer has not only committed an offence but is likely to obtain a much lower price for it than if he had reported it in the proper way.

Reporting a find of treasure in accordance with the requirements of the Act is the best guarantee of receiving a fair reward.

69. In addition, the Secretary of State may request the Treasure Valuation Committee to investigate the circumstances where there may be any grounds for the abatement of the reward under the terms of paragraphs 84 and 85 and to make a recommendation.
70. Should an interested party (as defined in paragraph 67) be dissatisfied with the Committee's recommendation, that party has the right to make representations to the Secretary of State before a decision is made. The Secretary of State will normally allow 28 days after the finder, the occupier, landowner or museum has been notified of the Committee's recommendation to allow any representation to be made before making the order. The Secretary of State's decision will be subject to the jurisdiction of the courts by way of judicial review. Any claim of maladministration can be investigated by the Parliamentary Commissioner for Administration.

## J. Rewards

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### I. Objectives

71. Finders are reminded that they may consider, in the first instance, foregoing cash rewards to allow eligible public collections to acquire treasure without payment. With the finder's consent, full and appropriate recognition of such action should always be given. It is acknowledged, however, that many finders will seek rewards for their finds. The paramount objective in the payment of *ex gratia* rewards for finds of treasure is to encourage the reporting of finds and to ensure that there are adequate incentives to finders while at the same time discouraging wrong behaviour. The Department for Culture, Media and Sport will pay the reward to the person or persons entitled to it according to the provisions in these guidelines. The Department will only make such payment after having received an equivalent sum of money from the museum or museums which wish to acquire the objects.

### II. Guidelines for the payment of rewards where the finder is searching for artefacts

72. Those eligible to receive rewards are the finder(s), landowner and/or occupier. Where the finder has a valid permission from the occupier or landowner to be on the land where he made his find in order to search for and remove artefacts he will receive his full share of the reward. The burden of proof as to whether he has permission will rest with the finder. It is normal practice to divide rewards equally between the finder and landowner on a 50:50 basis unless another form of agreement has been reached between them (see paragraph 73), or the reward is abated.
73. If it is established that the permission to enter the land was subject to the finder and occupier and/or the landowner agreeing to share any reward, the Secretary of State will be prepared to apportion the reward with reference to the agreement. If there is a

dispute as to the terms of such an agreement, the Secretary of State will determine what is appropriate, acting on the advice of the Treasure Valuation Committee. Where permission to enter land in order to search for treasure has been established, the burden of proving that it was subject to an agreement to share the proceeds of the reward will be with the occupier or the landowner (where different).

74. There may be occasions where an occupier for the time being, because of the extent and nature of his interest in the land, did not have the capacity to give permission and should not have done so: for example, an agricultural tenant may be prohibited from authorising a treasure search under the terms of his tenancy. It is not thought appropriate to abate the finder's reward unless it appears to the Secretary of State that the finder was aware, or could reasonably have established, that the person who granted consent to enter into the land had no authority to do so. Where the Secretary of State does abate the finder's reward, the balance of the abated reward will be paid to the person who would have been entitled to give permission to enter the land to search for treasure (usually the landowner).
75. Following from this, there may also be occasions on which an occupier for the time being, because of the extent and nature of his interest in the land, would be liable to a person having a superior interest in the land for the proceeds of the sale of any object found on the land and the Secretary of State intends to give effect to this in making the reward. If there is a dispute as to how a reward should be apportioned between the occupier of the land and the person having the superior interest (usually the owner), the Secretary of State will determine what is appropriate, acting on the advice of the Treasure Valuation Committee.
76. Whenever there is a dispute as to whether a reward should be abated or as to how it should be apportioned, the Secretary of State will have regard to any representations made by the parties and may ask for advice from the Treasure Valuation Committee.

77. If there is more than one finder, that residual part of the reward to which they are entitled (after the deduction of the portion due to the landowner) will normally be paid to them in equal proportions except where there is an agreement to the contrary.
78. If a finder does not remove the whole of a find from the ground but reports it, thus affording the opportunity for the archaeological excavation or investigation of the remainder of the find, the original finder will normally be eligible for a reward for the whole find and not just that part which he himself had removed from the ground, although the Secretary of State will need to examine the individual circumstances of each case.
79. Finders may expect to receive no rewards at all or abated rewards under the following circumstances:
- (i) where the finder has committed an offence under section 8 of the Act by failing to report treasure within 14 days of making the find or within 14 days of believing or of having reasonable grounds for believing that the find was treasure, without a reasonable excuse;
  - (ii) where the finder has committed an offence under section 42 of the 1979 Ancient Monuments and Archaeological Areas Act (unauthorised use of a metal detector in a protected place) (see paragraph 31);
  - (iii) where there is evidence of illegal activity in relation to a find whether or not a prosecution has been mounted;
  - (iv) where all the relevant circumstances surrounding a find, including the find-spot, were not reported;
  - (v) where a finder has failed to deposit a find promptly as directed by the coroner and/or where there is evidence that only part of a find has been handed in;
  - (vi) where there are reasonable grounds for believing that a find was made elsewhere than on the alleged site;

- (vii) where there are reasonable grounds for believing that the finder was trespassing;<sup>9</sup>
- (viii) where significant damage has been done deliberately or recklessly either to the actual object, or to a surrounding monument or to the archaeological deposits making up the contexts which may explain the circumstances in which the object became buried or concealed, when the object was removed from the place where it was found;
- (ix) where there are other factors that the Secretary of State thinks it appropriate to take into account in individual cases.

It will be within the discretion of the Secretary of State to decide by how much the reward to the finder is to be abated in such circumstances or whether no reward will be payable at all to the finder.

80. In such circumstances the occupier or the landowner will be eligible for the whole of the balance of the reward in such proportion as the Secretary of State may determine, according to the principles laid down in paragraph 74, provided that there is no evidence that they have been a party to wrong behaviour on the part of the finder. The museum that acquires the find will only have to pay that part of the reward that is actually payable.
81. Rewards will not be payable when the find is made by an archaeologist or anyone engaged on an archaeological excavation or investigation. In cases of uncertainty archaeologists are recommended to require any individuals for whom they are responsible, or to whom they have given, or for whom they have sought, permission to search, to sign a statement waiving their right to a reward. If there is doubt as to whether the finder was an archaeologist (or a person engaged on an archaeological excavation or investigation) the Treasure Valuation

<sup>9</sup> As regards finds made on the foreshore (that is the land between mean high water and mean low water), the Crown Estate confirms that a finder on Crown Estate foreshore will ordinarily be treated as being on the land with permission, that is not trespassing, but this implied permission does not include permission to search. (Just over half of the foreshore on the coast of England, Wales and Northern Ireland is Crown land.)

Committee shall decide. This will not affect any interest that the occupier or the landowner may have in any reward. The proportion of any reward payable to an eligible landowner (or occupier) is 50 per cent. (See also paragraph 52.)

### **III. Guidelines for the payment of rewards where the finder was not searching for artefacts**

82. Where the finder, who has not been searching for artefacts, makes a chance find and where he clearly has permission to be where he made his find and where he has reported his find according to the law, then the reward will be divided in whatever proportions the Secretary of State thinks fit, taking account of the circumstances of each case. In most cases the finder or finders may expect to receive half of the reward; that part of the reward for which the occupier and the landowner may be eligible will be divided between them according to the principles laid down in paragraph 74 (see also paragraph 81).
83. Where the finder has not been searching for artefacts and there are reasonable grounds for believing that the finder did not have permission to be where he made the find, then it may be appropriate for the reward to be divided between the finder, the occupier and the landowner, the Secretary of State being able to use discretion according to the individual circumstances of the case.

### **IV. Amount of abatement**

84. Decisions about the level of rewards in individual cases will be taken in the light of the particular circumstances of each case and in making a decision the Secretary of State shall be guided by the recommendations of the Treasure Valuation Committee. In making its recommendations, the Committee shall seek to find a balance between the objective of rewards to encourage the prompt and proper reporting of finds, and the need for rewards not in themselves to provide an incentive for illegal or improper behaviour. The Committee shall also take account of the archaeological and historical

significance of the effect of illegal or improper behaviour involved in the specific circumstances of a particular case. In such cases the interested parties will have the opportunity to submit evidence to the Committee. The Secretary of State will notify the parties concerned of the decision, giving such reasons as may be necessary.

85. The Secretary of State's decision will be subject to the jurisdiction of the courts by way of judicial review. Any claim of maladministration can be investigated by the Parliamentary Commissioner for Administration.

## K. Annual Report

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86. The Act requires the Secretary of State to report to Parliament annually on the operation of the Act. This report comprises a list of all cases of treasure and also those cases that have been disclaimed by the Secretary of State. It may also include further information about the archaeological context of treasure, associated non-treasure objects and the treasure process itself. All individuals and grant-giving bodies who have helped museums to acquire treasure, including finders who have waived rewards, and who have no objection to public recognition, will be acknowledged in the report.

## L. Speed of Handling Cases

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87. The Government believes that it is very important that cases of treasure and potential treasure should be dealt with by all bodies concerned (museums, archaeologists, finds liaison officers and the police to whom such objects may be reported, coroners, the national museums, the Department for Culture, Media and Sport, the Treasure Valuation Committee) as expeditiously as possible and requests these bodies to do all that they can to ensure this; as a general rule the target should be that the period between the find being received by the coroner or by the organisation to whom he has directed that the find be delivered and the payment of an *ex gratia* reward should not be longer than twelve months (provided no challenges are made to valuations), although it may be necessary to exceed this period in exceptional cases such as large hoards of coins, or finds that present particular difficulties. The Treasure Registrar (or, for finds in Wales, the National Museums & Galleries of Wales) will write to finders when a find first comes to the national museum (or other relevant museum as agreed) and copy to the finder the museum's report to the coroner. The coroner will inform the national museum, the finder and the landowner/occupier of the date of the inquest. The Department for Culture, Media and Sport will keep finders and other interested parties fully informed of the progress of their cases once a find has been declared to be treasure and a museum wishes to acquire it. The target time between the valuation of a find having been agreed by all interested parties and the payment of the reward should be three months, or four months in cases where museums have to seek grants from other bodies, provided that no interested party (as defined in paragraph 67) makes a representation to the Secretary of State concerning the Treasure Valuation Committee's recommendation. In cases where finds are disclaimed before an inquest is held in accordance with the procedure laid down in paragraphs 48–51, the target time should be six months between the receipt of the find by the coroner or by the

organisation to whom he has directed that the find should be delivered and the coroner notifying his intention to return the object(s).

88. Target times will be examined again in the context of any further review of this Code of Practice (see paragraph 89).

## M. Codes of Practice

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89. The Act requires the Secretary of State to keep this Code under review. A review was carried out in 2000–2001 after the Act had been in operation for three years and the review recommended adjustments to the definition of treasure, according to the powers in section 2, and a number of revisions to the Code: it examined, amongst other things, the target times for the handling of cases, the arrangements for the acquisition of finds set down in paragraph 63 and the valuation of treasure. Those bodies which were consulted on the Code originally were given the opportunity to participate in the review. All changes agreed by the Secretary of State have been included in this revised (2002) edition of the Code. Further reviews may take place, at the discretion of the Secretary of State, five years after the publication of the revised Code of Practice.

## Appendix 1: Treasure Act 1996

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### ARRANGEMENTS OF SECTIONS

#### *Meaning of 'treasure'*

- Section 1. Meaning of 'treasure'.
- Section 2. Power to alter meaning.
- Section 3. Supplementary.

#### *Ownership of treasure*

- Section 4. Ownership of treasure which is found.
- Section 5. Meaning of 'franchisee'.
- Section 6. Treasure vesting in the Crown.

#### *Coroners' jurisdiction*

- Section 7. Jurisdiction of coroners.
- Section 8. Duty of finder to notify coroner.
- Section 9. Procedure for inquests.

#### *Rewards, codes of practice and report*

- Section 10. Rewards.
- Section 11. Codes of practice.
- Section 12. Report on operation of Act.

#### *Miscellaneous*

- Section 13. Application of Act to Northern Ireland.
- Section 14. Consequential amendments.
- Section 15. Short title, commencement and extent.

## Treasure Act 1996

### 1996 CHAPTER 24

An Act to abolish treasure trove and to make fresh provision in relation to treasure. [4th July 1996.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

#### *Meaning of Treasure*

1. — (1) Treasure is:

- (a) any object at least 300 years old when found which:
    - (i) is not a coin but has metallic content of which at least 10 per cent by weight is precious metal;
    - (ii) when found, is one of at least two coins in the same find which are at least 300 years old at that time and have that percentage of precious metal; or
    - (iii) when found, is one of at least ten coins in the same find which are at least 300 years old at that time;
  - (b) any object at least 200 years old when found which belongs to a class designated under section 2(1);
  - (c) any object which would have been treasure trove if found before the commencement of section 4;
  - (d) any object which, when found, is part of the same find as:
    - (i) an object within paragraph (a), (b) or (c) found at the same time or earlier; or
    - (ii) an object found earlier which would be within paragraph (a) or (b) if it had been found at the same time.
- (2) Treasure does not include objects which are:
- (a) unworked natural objects, or
  - (b) minerals as extracted from a natural deposit, or which belong to a class designated under section 2 (2).

2. — (1) The Secretary of State may by order, for the purposes of section 1(1)(b), designate any class of object which he considers to be of outstanding historical, archaeological or cultural importance.
  - (2) The Secretary of State may by order, for the purposes of section 1(2), designate any class of object which (apart from the order) would be treasure.
  - (3) An order under this section shall be made by statutory instrument.
  - (4) No order is to be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
3. — (1) This section supplements section 1.
  - (2) 'Coin' includes any metal token which was, or can reasonably be assumed to have been, used or intended for use as or instead of money.
  - (3) 'Precious metal' means gold or silver.
  - (4) When an object is found, it is part of the same find as another object if:
    - (a) they are found together,
    - (b) the other object was found earlier in the same place where they had been left together,
    - (c) the other object was found earlier in a different place, but they had been left together and had become separated before being found.
  - (5) If the circumstances in which objects are found can reasonably be taken to indicate that they were together at some time before being found, the objects are to be presumed to have been left together, unless shown not to have been.
  - (6) An object which can reasonably be taken to be at least a particular age is to be presumed to be at least that age, unless shown not to be.
  - (7) An object is not treasure if it is wreck within the meaning of Part IX of the Merchant Shipping Act 1995.

*Ownership of treasure*

4. — (1) When treasure is found, it vests, subject to prior interests and rights:
- (a) in the franchisee, if there is one;
  - (b) otherwise, in the Crown.
- (2) Prior interests and rights are any which, or which derive from any which:
- (a) were held when the treasure was left where it was found, or
  - (b) if the treasure had been moved before being found, were held when it was left where it was before being moved.
- (3) If the treasure would have been treasure trove if found before the commencement of this section, neither the Crown nor any franchisee has any interest in it or right over it except in accordance with this Act.
- (4) This section applies:
- (a) whatever the nature of the place where the treasure was found, and
  - (b) whatever the circumstances in which it was left (including being lost or being left with no intention of recovery).
5. — (1) The franchisee for any treasure is the person who:
- (a) was, immediately before the commencement of section 4, or
  - (b) apart from this Act, as successor in title, would have been, the franchisee of the Crown in right of treasure trove for the place where the treasure was found.
- (2) It is as franchisees in right of treasure trove that Her Majesty and the Duke of Cornwall are to be treated as having enjoyed the rights to treasure trove which belonged respectively to the Duchy of Lancaster and the Duchy of Cornwall immediately before the commencement of section 4.
6. — (1) Treasure vesting in the Crown under this Act is to be treated as part of the hereditary revenues of the Crown to which section 1 of the Civil List Act 1952 applies (surrender of hereditary revenues to the Exchequer).

- (2) Any such treasure may be transferred, or otherwise disposed of, in accordance with directions given by the Secretary of State.
- (3) The Crown's title to any such treasure may be disclaimed at any time by the Secretary of State.
- (4) If the Crown's title is disclaimed, the treasure:
  - (a) is deemed not to have vested in the Crown under this Act, and
  - (b) without prejudice to the interests or rights of others, may be delivered to any person in accordance with the code published under section 11.

#### *Coroners' jurisdiction*

- 7. — (1) The jurisdiction of coroners which is referred to in section 30 of the Coroners Act 1988 (treasure) is exercisable in relation to anything which is treasure for the purposes of this Act.
  - (2) That jurisdiction is not exercisable for the purposes of the law relating to treasure trove in relation to anything found after the commencement of section 4.
  - (3) The Act of 1988 and anything saved by virtue of section 36(5) of that Act (saving for existing law and practice etc.) has effect subject to this section.
  - (4) An inquest held by virtue of this section is to be held without a jury, unless the coroner orders otherwise.
- 8. — (1) A person who finds an object which he believes or has reasonable grounds for believing is treasure must notify the coroner for the district in which the object was found before the end of the notice period.
  - (2) The notice period is fourteen days beginning with:
    - (a) the day after the find; or
    - (b) if later, the day on which the finder first believes or has reason to believe the object is treasure.
  - (3) Any person who fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to:
    - (a) imprisonment for a term not exceeding three months;

- (b) a fine of an amount not exceeding level 5 on the standard scale; or
  - (c) both.
- (4) In proceedings for an offence under this section, it is a defence for the defendant to show that he had, and has continued to have, a reasonable excuse for failing to notify the coroner.
- (5) If the office of coroner for a district is vacant, the person acting as coroner for that district is the coroner for the purposes of subsection (1).
- 9. —** (1) In this section ‘inquest’ means an inquest held under section 7.
- (2) A coroner proposing to conduct an inquest must notify:
- (a) the British Museum, if his district is in England; or
  - (b) the National Museum of Wales, if it is in Wales.
- (3) Before conducting the inquest the coroner must take reasonable steps to notify:
- (a) any person who it appears to him may have found the treasure; and
  - (b) any person who, at the time the treasure was found, occupied land which it appears to him may be where it was found;
- (4) During the inquest the coroner must take reasonable steps to notify any such person not already notified.
- (5) Before or during the inquest, the coroner must take reasonable steps:
- (a) to obtain from any person notified under subsection (3) or (4) the names and addresses of interested persons; and
  - (b) to notify any interested person whose name and address he obtains.
- (6) The coroner must take reasonable steps to give any person notified under subsection (3), (4) or (5) an opportunity to examine witnesses at the inquest.
- (7) In subsections (5) and (6), ‘interested person’ means a person who appears to the coroner to be likely to be concerned with the inquest:
- (a) as the finder of the treasure or otherwise involved in the find;

- (b) as the occupier, at the time when the treasure was found, of the land where it was found, or
- (c) as having had an interest in that land at that time or since.

*Rewards and codes of practice*

10. — (1) This section applies if treasure:
- (a) has vested in the Crown under section 4; and
  - (b) is to be transferred to a museum.
- (2) The Secretary of State must determine whether a reward is to be paid by the museum before the transfer.
- (3) If the Secretary of State determines that a reward is to be paid, he must also determine, in whatever way he thinks fit:
- (a) the treasure's market value;
  - (b) the amount of the reward;
  - (c) to whom the reward is to be payable; and
  - (d) if it is to be payable to more than one person, how much each is to receive.
- (4) The total reward must not exceed the treasure's market value.
- (5) The reward may be payable to:
- (a) the finder or any other person involved in the find;
  - (b) the occupier of the land at the time of the find;
  - (c) any person who had an interest in the land at that time, or has had such an interest at any time since then.
- (6) Payment of the reward is not enforceable against a museum or the Secretary of State.
- (7) In a determination under this section, the Secretary of State must take into account anything relevant in the code of practice issued under section 11.
- (8) This section also applies in relation to treasure which has vested in a franchise under section 4, if the franchisee makes a request to the Secretary of State that it should.
11. — (1) The Secretary of State must:
- (a) prepare a code of practice relating to treasure;
  - (b) keep the code under review; and
  - (c) revise it when appropriate.

- (2) The code must, in particular, set out the principles and practice to be followed by the Secretary of State:
    - (a) when considering to whom treasure should be offered;
    - (b) when making a determination under section 10; and
    - (c) where the Crown's title to treasure is disclaimed.
  - (3) The code may include guidance for:
    - (a) those who search for or find treasure; and
    - (b) museums and others who exercise functions in relation to treasure.
  - (4) Before preparing the code or revising it, the Secretary of State must consult such persons appearing to him to be interested as he thinks appropriate.
  - (5) A copy of the code and of any proposed revision of the code shall be laid before Parliament.
  - (6) Neither the code nor any revision shall come into force until approved by a resolution of each House of Parliament.
  - (7) The Secretary of State must publish the code in whatever way he considers appropriate for bringing it to the attention of those interested.
  - (8) If the Secretary of State considers that different provision should be made for:
    - (a) England and Wales, and
    - (b) Northern Ireland,or that different provision should otherwise be made for treasure found in different areas, he may prepare two or more separate codes.
- 12.** — (As soon as reasonably practicable after each anniversary of the coming into force of this section, the Secretary of State shall lay before Parliament a report on the operation of this Act in the preceding year.

*Miscellaneous*

- 13.** — In the application of this Act to Northern Ireland:
- (a) in section 7:
    - (i) in subsection (1), for 'section 30 of the Coroners Act 1988'

- substitute ‘section 33 of the Coroners Act (Northern Ireland) 1959’;
- (ii) in subsection (3), for the words from ‘1988’ to ‘practice etc)’ substitute ‘1959’;
- (b) in section 9(2), for the words from ‘British Museum’ to the end substitute ‘Department of the Environment for Northern Ireland’.
- 14.** — (1) In section 33 of the Coroners Act (Northern Ireland) 1959 (inquest on treasure trove), for ‘treasure trove’ substitute ‘treasure’.
- (2) In section 54(3) of the Ancient Monuments and Archaeological Areas Act 1979 (saving for rights in relation to treasure trove) for ‘in relation to treasure trove’ substitute ‘under the Treasure Act 1996’.
- (3) In Article 42 of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (reporting of archaeological objects):
- (a) after paragraph (10) insert:  
(10A) This Article does not apply in relation to an object if the person who found it believes or has reasonable grounds for believing that the object is treasure within the meaning of the Treasure Act (1996).;
- (b) in paragraph (11)(a) for ‘treasure trove’ substitute ‘any treasure within the meaning of the Treasure Act 1996’.
- (4) Subsections (2) and (3)(b) have effect in relation to any treasure found after the commencement of section 4.
- (5) Subsection (3)(a) has effect in relation to any object found after the commencement of section 8.
- 15.** — (1) This Act may be cited as the Treasure Act 1996.
- (2) This Act comes into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (3) This Act does not extend to Scotland.

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## STATUTORY INSTRUMENTS

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**2002 No. 2666**

### **TREASURE**

#### **The Treasure (Designation) Order 2002**

*Made 21st October 2002*

*Coming into force 1 January 2003*

Whereas a draft of this Order has been laid before, and approved by resolution of each House of Parliament pursuant to section 2(4) of the Treasure Act 1996<sup>(a)</sup>;

Now, therefore the Secretary of State, in exercise of the powers conferred upon her by section 2(1) and (3) of the Treasure Act 1996 and all other powers enabling her in that behalf, hereby makes the following order:

#### **Citation, commencement and application**

- (1) This Order may be cited as the Treasure (Designation) Order 2002 and shall come into force on 1st January 2003.
- (2) This Order applies only in relation to objects found on or after the date when it comes into force.

#### **Interpretation**

1. In this Order-

“the Act” means the Treasure Act 1996;

“base metal” means any metal other than gold or silver; and

“of prehistoric date” means dating from the Iron Age or any earlier period.

<sup>(a)</sup> 1996 c.24.

### **Designation of classes of objects of outstanding historical, archaeological or cultural importance**

3. The following classes of objects are designated pursuant to section 2(1) of the Act:
  - (a) any object (other than a coin), any part of which is base metal, which, when found, is one of at least two base metal objects in the same find which are of prehistoric date;
  - (b) any object, other than a coin, which is of prehistoric date, and any part of which is gold or silver.

21st October 2002

*Tessa Blackstone*  
Minister of State for Culture, Media and Sport

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order extends the definition of “treasure” in section 1 of the Treasure Act 1996 (“the Act”) by designating under section 2(1) of the Act two classes of objects as being of outstanding historical, archaeological or cultural importance. The Order applies to England, Wales and Northern Ireland.

The first class of object is one of at least two base metal objects (other than coins), from the same find which are of prehistoric date.

The second class of object is any object (other than a coin) of prehistoric date, any part of which is gold or silver.