

TREASURE ACT

The new **Treasure Act 1996 (England, Wales and Northern Ireland)** came into force on **24 September 1997**. The Act was revised in **October 2002** in order to extend the definition of **Treasure**. It has been drafted to ensure the reporting, recording and preservation of archaeological objects of gold and silver, and hoards of coins and some other prehistoric material. This briefing outlines how the **Treasure Act** works and the role of museums in encouraging compliance with it and in acquiring finds. It does not cover the voluntary recording scheme for portable antiquities.

The Code of Practice on the Treasure Act, available separately for England and Wales and for Northern Ireland, gives essential guidance for those involved in the implementation of the act. Museums should also be aware of the local agreements for treasure reporting for their area.

The definition of treasure

A greater range of material is covered under the **Treasure Act** than under the former common law of treasure trove. It includes objects not of precious metal, but found in association with it, gold and silver objects that were accidentally lost or buried in a grave, all coin hoards and prehistoric base metal objects where two or more of these were found together. The act defines treasure as:

- objects other than coins: any object other than a coin provided that it contains at least 10 per cent of gold or silver and is at least 300 years old when found
- coins: all coins that contain at least 10 per cent gold or silver by weight of metal and that come from the same find provided they are at least 300 years old when found
- all coins with less than 10 per cent of gold or silver when they are at least ten such coins from the same find and they are at least 300 years old when found

■ the following groups of coins will normally be regarded as coming from the same find:

- hoards that have been deliberately hidden
- smaller groups of coins, such as the contents of purses, that may have been accidentally lost
- votive or ritual deposits

Single coins are not treasure unless found with other objects of treasure, or unless there is evidence that they were buried with intention of recovery

- associated objects: 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
- objects that would have been treasure trove: any object that would previously have been treasure trove, but does not fall within the categories above. These objects must be substantially of gold or silver; have been buried with the intention of recovery; and their owner or their heirs be unknown (ownerless coin hoards less than 300 years old would fall into this category)
- all prehistoric base metal objects from the same find, provided two

or more were found together (from 1 January 2003)

The following are not treasure:

- objects the owners of which can be traced
- unworked natural objects including human and animal remains, even if found in association with treasure
- objects from consecrated ground of the Church of England (this may be subject to revision), apart from those that would have been treasure trove
- foreshore finds from a wreck, where the Merchant Shipping Act 1995 would apply

The scope of the act

- the act applies to all ownerless objects found in England, Wales and Northern Ireland that fulfil the definition as treasure
- the act applies to objects found after 24 September 1997 and is not retrospective
- the act confirms that treasure vests in the Crown or in the treasure franchise holder, subject to prior interests and rights. Treasure franchises are held by the

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The Treasure Act and the voluntary recording scheme for archaeological finds (the Portable Antiquities Scheme)

These are two separate initiatives, although they represent a dual attempt to record new archaeological evidence. The Treasure Act provides a mechanism for the public acquisition of treasure. The voluntary recording scheme aims to encourage the recording of all new archaeological objects. Staff in each area have the task of co-ordinating the reporting of all finds on a central database. By December 2003 the Portable Antiquities Scheme will cover the whole of England and Wales with a network of Finds Liaison Officers

Corporation of London and City of Bristol, and by the Duchies of Lancaster and Cornwall, and entitle the holders to prior claim to ownerless treasure. These franchise holders confirm that they expect to follow the normal system of paying rewards.

Museums and the reporting of treasure

- when an object that may be treasure is brought to a museum, the finder must be advised of their legal duty to report the find to the coroner of the district in which the find was made within 14 days of the date of discovery, or within 14 days of realising that the object may be treasure (for example, as a result of having it identified). The report may be made in person, by letter, telephone or fax
- museum staff should take reasonable steps to assist the finder in contacting the coroner, by offering the use of a telephone for example
- reporting is required by all finders, including archaeologists and museum staff. A list of coroners is given as appendix 3A in the Code of Practice. Where there is any possibility that an object may be treasure, it must be reported. There is a maximum penalty of three months' imprisonment or a fine, or both, for failure to report treasure without reasonable excuse

Local agreements

Local agreements exist between coroners, museums and archaeological officers in each coroner's district defining the arrangements for handling treasure finds. In some areas, local arrangements have made provision for the delivery of treasure directly to a museum when the coroner has been informed.

Museums operating local agreements are recommended to be bound by the advice of the Museums Association Ethics Committee that people working in museums should not normally claim any reward to which they may be entitled under the Treasure Act. Governing bodies could include this requirement in contracts of employment.

Delivery of finds

The coroner will advise the finder to which museum or archaeological organisation they should deliver the finds for examination according to the local agreement. Relevant documentation will be copied to that body, which should in turn copy it to the national museum (British Museum in the case of finds from England, the Ulster Museum for finds from Northern Ireland and the National Museums and Galleries of Wales for finds from Wales) and the Sites and Monuments Record (SMR).

The standard receipt form,

available from the Department of Culture, Media and Sport (DCMS), should be used when finds are delivered, on the coroner's instruction, to a museum or archaeological officer. The form should be completed as fully as possible and the opportunity taken to acquire as much information on the find, circumstances of discovery and provenance as possible.

A copy of the receipt should be sent to the coroner as confirmation that the find has been delivered. The coroner should be informed if a finder is unwilling to disclose any details.

Liability for loss or damage is accepted under the Treasure Act except where this has occurred through negligence. Receiving museums must therefore ensure that a full description of the condition of the object is agreed with the finder.

If a museum receipt form is also completed, any denial of liability for loss or damage clause should be deleted. Receipt forms provided by finders should not be signed as they may contain unacceptable conditions.

Examination and provenance

The location and context of each new find should be immediately reported to the appropriate SMR and the need for a rapid archaeological response assessed. The precise location of the find spot must remain confidential.

When examining finds, more than minimal cleaning should only be undertaken by, or with the advice of, a professional archaeological conservator.

Non treasure

Where a reported find is clearly not treasure, an inquest will not take place and the

coroner will give permission for the return of the object to the finder. Such objects should be recorded by the local museum under the usual procedure for recording new finds.

Disclaiming finds

Treasure objects reported but not required by any registered museum will normally be disclaimed by the secretary of state on the advice of the national museum. The coroner will be informed, but no inquest need take place. Information about the find must be passed to the SMR. Only a complete find may be disclaimed.

Inquests

Inquests will usually only be held on objects that a registered museum wishes to acquire. The Crown, national museum, local museum, or local archaeological officer may attend. The finder, landowner and occupier may also be represented. If the facts are straightforward, none of these need be summoned; nor are the objects necessarily required.

If the inquest finds an object is not treasure, it is returned to the finder. If it is declared treasure, a valuation will be prepared by the Treasure Valuation Committee.

Acquisition

Treasure will be available to museums within the following guidelines:

- the Museum of London and Bristol Museums and Art Gallery have first right to acquire treasure under their historic franchises
- finds of national importance are normally acquired by the national museum. When a find of local or regional

interest cannot be acquired by a registered museum, the national museum may acquire it

- local registered museums may acquire finds not of national importance. If the local museum does not wish to acquire a find, it is offered to other registered museums
- if no museum wishes to acquire the find intact, museums may select objects from the find. The remainder is returned by the coroner
- treasure found during excavation should remain with

Scotland

All ownerless objects in Scotland belong to the Crown, under a system known as *bona vacantia*, which encompasses treasure trove, and includes man-made objects of any material. Under *bona vacantia* not all objects are claimed by the Crown.

the rest of the archaeological archive

- a find from consecrated ground that would have qualified as treasure trove will be offered to a local church museum, if the national museum does not wish to acquire it
- if finders, or 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 are taken into account
- disposal of treasure objects may only be undertaken in accordance with Resource registration guidelines

Treasure Valuation Committee

When an object has been declared treasure, the Treasure Valuation Committee will:

- recommend a market valuation of it to the secretary of state
- give advice when there are grounds for either no reward, or a reduced reward, being paid or where there is a

dispute as to the division of the reward.

Interested parties, including acquiring museums, may comment on the valuations commissioned by the committee, and submit their own evidence before the treasure valuation is recommended.

Rewards

Rewards are paid for treasure to encourage the reporting of finds. They are paid when the Department of Culture, Media and Sport has received an equivalent sum of money from the museum(s) acquiring the treasure.

- Rewards will be paid to the finder and, in certain instances, the landowner or occupier, following defined guidelines
- Reduced rewards, or no reward, will usually be made where the procedure for reporting treasure was not followed, in particular where the finder was trespassing

Northern Ireland

In Northern Ireland there is a statutory duty to report all archaeological objects and a licence is needed to search for archaeological objects (Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995). The Northern Ireland Code of Practice on the Treasure Act has been adapted to take account of this legislation.

- Rewards will not normally be payable when the find is made by an archaeologist. The Museums Association Ethics Committee advises that to avoid conflicts of interest, the same condition should apply to people working in or for museums
- A museum acquiring treasure will only pay for any reward that is made.

Further reading and information

- *The Treasure Act 1996: Code of Practice (Revised) England and Wales*, Department of Culture, Media and Sport, 2002

- *The Treasure Act 1996: Northern Ireland Code of Practice*, Department of the Environment for Northern Ireland, 1997
www.ehsni.gov.uk/built/monuments/treasure

- *The Treasure Act: information for finders of treasure (England and Wales)*, leaflet published by the Department of Culture, Media and Sport, 2003. Also available in Welsh www.culture.gov.uk

- *Treasure Act 1996: a guide for museum curators and local government archaeologists*, Department of Culture, Media and Sport, 1997

- *Treasure Act 1996: Home Office circular for coroners No 44/1997*

- *Treasure Act 1996: list of local arrangements for the reporting and delivery of treasure in England and Wales*, Department of Culture, Media and Sport, 1997

- *Treasure Act 1996: receipt for object(s) of potential treasure*, Department of Culture, Media and Sport, 1997

- British Museum Treasure Registrar. Tel: 020 7323 8611

- Department for Culture Media and Sport, Cultural Property Unit. Tel: 020 7211 6181

- For Treasure publication call: DCMS Information Centre. Tel: 020 7211 6200. Email: enquiries@culture.gov.uk