

THE CHANGES TO TREASURE LAW IN ENGLAND, WALES AND NORTHERN IRELAND.

The proposed changes to the Treasure Act (1996) was laid in front of Parliament on the 20th February in the form of a Statutory Instrument. In plain English this means that the House of Commons and the House of Lords are being given information on proposed changes to the Treasure Act for them to consider and vote on at some date (still to be confirmed) in the next few months.

This is not a new law, just a change to the existing Treasure Act (1996). It will come into law at some point in the future, most likely early in 2024.

There are three changes being proposed.

1. An update to the administrative process for treasure (*see section 2 below*)
2. Clarification of the role of the Portable Antiquities Scheme (PAS) in the process for England and Wales (*see section 2 below*)
3. A new class of treasure taking in the significance of a find (*see section 1 below*)

It is very important to note that the new significance class of treasure is in addition to the existing classes of treasure and does not replace them. So, for clarity, this means that if an item does not qualify as significant then it still needs to be at least 300 years old and meet the existing rules on precious metal content, etc. For ~95% of treasure items it is business as usual!

We have been repeatedly assured by DCMS that items being considered under this new classification of treasure will have to meet a very high bar of evidence and is unlikely to bring in a large number of new treasure cases (less than 100 per year).

SECTION 1

What will qualify under the new significance class of treasure?

An object that provides an exceptional insight into an aspect of national or regional history, archaeology or culture because of one or more of the following criteria:

- **It is a rare example of its type**
- **The location where it was found**
- **Its connection with a particular person or event.**

The item must also be made of metal, be at least 200 years old, and be found after the new significance class has been entered into law, which we think will be early 2024 (to be confirmed).

It is worth noting that a single item may not be significant in its own right but might be if found as part of a group of items which together do meet these criteria.

It is also important to remember that the item must be found in England, Wales or Northern Ireland. Scotland has its own set of treasure laws (Treasure Trove) which remain unchanged.

What do they mean by rare?

Rarity may be because:

- It has a high level of completeness or preservation compared to other known examples.
- It meaningfully expands the known examples of a particular object type, form, art style or evidence of manufacturing technique
- The rare or unusual way it was used treated or modified during its use

Rare (unique or very uncommon) is not reason enough to meet the new class of treasure. It must also provide an exceptional insight into national or regional history, archaeology or culture.

What does location have to do with it?

This criteria only applies where the item provides an exceptional insight into the specific history or culture of a place due to the location in which it was found. For example Roman finds in Northern Ireland are rare so might qualify where the same find in southern England wouldn't. We're waiting on more examples to help make this clearer and will share them as soon as we can.

What do they mean by 'connected with a particular person or event'?

This is only relevant to finds closely associated with a particular prominent person or event of historic importance. **It must also provide an insight into the understanding of that person or event.** Note that strong documentary evidence would be needed to prove this association.

How will I know it might be significant?

Some things will be obvious. If you unearth a stunning Roman figurine or a perfect Viking dagger we think you might be pretty sure it should be checked out! Other things might not be quite as obvious, especially if you haven't been detecting for a long time.

Everyone should consider if the item is of higher quality or an unusual type compared to your usual finds. Friends, Facebook groups, forums, detecting clubs and others might help you if you are unsure. Your Finds Liaison Officer, museum staff and treasure registry staff are also there to help and offer their expertise. For coins and similar specialist items a coin dealer will be able to identify if the coin is very rare or unusual. And don't forget the NCMD forum which members can access via our website or app!

SECTION 2

The administrative process for treasure is changing - this is what it means to you

The process is having timing restrictions added to the major stages of the process to speed up the time things take to go through the system. It is hoped this will make things much faster. A process map will be supplied in the Code of Practice (3rd revision) that will be published on Thursday 23rd February 2023.

In addition, for England and Wales, Finds Liaison Officers are being formally written into the treasure process. This just formalises existing common practice. You can still report finds to a coroner but they will direct you to your local FLO (or, in Wales, also the Treasure Registry at Amgueddfa Cymru - Museum Wales) to formally hand in the item and complete the paperwork. In Northern Ireland the process remains unchanged.

Here's an overview of the expected time for each step of a standard treasure case (note for complex cases or cases being reported under the significance-based class of Treasure, additional time may be required to complete the report. Time for payment of reward funds may also be extended (with agreement from the Treasure registrar) in high value cases):

- a finder has **14 days** to report a Treasure find (from finding or recognising it as potential treasure) to the local Coroner. In practice the finder will report the find to the FLO in England. In Wales finds can be reported to a FLO or the Treasure Registry at Amgueddfa Cymru - Museum Wales. In Northern Ireland treasure finds should be reported to the Curator of Archaeology at National Museums NI. The finder must complete a Treasure Receipt when the find is reported or deposited. This is then sent to the Coroner.
- Once the find is deposited the Treasure Registry should identify a report writer who should aim to complete the Treasure Report within **90 days** of being commissioned;
- A museum has **28 days** to decide whether to express an interest in acquiring a find after the report is complete;
- The Coroner will aim to hold an Inquest within **90 days** of receiving the report;
- The Treasure Valuation Committee will consider the find at the next appropriate meeting;
- The museum has **90 days** to raise any reward money due (**120 days** if applying for external funding);
- Known reward recipients have **180 days** to provide their bank details
- The finder or landowner has **12 months** to collect disclaimed items

Q&A

What about the things we've already found? Will they be included in the new significant classification?

The simple answer is no.

Laws cannot be applied retrospectively and come into force no earlier than 4 months after being passed by Parliament. So if you find something that doesn't currently qualify as treasure at the time it was found then it can't be claimed later. In the coming months we will provide advice on how you can keep a record to prove your existing finds were unearthed before the new classification is introduced.

What can be claimed under the new significance based class?

It must meet ALL these criteria:

- Firstly it must be made of metal. This can be any type of metal.
- It must be confidently dated as being at least 200 years old
- It must be significant (see above for detail)

Don't forget ALL the existing treasure classes still apply too - this new significance class does not replace them. In all other classes of treasure (the ones we are all familiar with) the item(s) must still be at least 300 years old.

The new significance class criteria needs more detail. The NCMD have been invited by DCMS to be part of the team looking at this detail so that official guidance given to all the parties involved in the process is clear. The detecting community will be represented by the NCMD and we will involve you in this process.

What are the NCMD going to do if 'significance' is used to claim anything and everything?

We have a large fund of money ring fenced to protect our hobby. If you believe an item is claimed as significant and you don't think it should be then please let us know. If we agree with you then we are fully prepared to give financial support to cover the cost of getting expert witnesses and legal counsel for inquest cases. Further details on how this will work will be shared with you later this year.

The system is really slow so this is just going to make things worse.

The current treasure system has been looked at in detail by DCMS as part of the Treasure Act review to make it quicker. As a result they've set timelines on different parts of it. For the first time museums have been given a time limit to express an interest in acquiring an item, paying rewards, etc. Similarly they've set a time limit for finders and land owners

to collect items and provide bank details for rewards too. We all have a part to play in the system. Where things like paying rewards are extended beyond the standard deadlines this must be justified; for example a large financial reward might mean a Museum needs more time for fundraising. In these cases the treasure registrar will need to agree to the time extension and will communicate the new deadline to both the land owner and the finder.

These time limits should improve both the speed of the process and the information you receive on the progress of treasure items through the system.

The other aspect of this is staffing levels. Funding for Finds Liaison Officers (FLOs) and the Treasure process has been increased. Both were given extra funding (in addition to inflation) a few months ago. This will mean more FLOs, a larger team in the central treasure unit at the British Museum, and the funding needed to replace the existing Portable Antiquities Scheme (PAS) database. This new database will digitise the treasure process, increasing transparency and improving communications with land owners and finders. Is this enough? Probably not but in the current financial climate more government funding is unlikely.

The system is really slow. What are you doing about it?

We have had some vigorous discussions about the lack of measurement and targets on the speed and quality of the process. The DCMS are funding a new PAS database that will ensure all finds, including treasure, is easier to track, better communicated and more transparent for everyone involved. However, this new database might take up to 3 years to launch.

To cover that time delay we have offered to pay for a system to centralise monitoring and measurement of the treasure process so communications can be improved for you, the finders, and the land owners. It will also make the system speed and delays transparent to DCMS, the British Museum and everyone else concerned. We believe this is long overdue. We will see if DCMS and PAS decide to accept our offer.

In addition we are also offering to fund an app to allow members to share information on potential treasure items with PAS staff. This would get you expert advice on whether or not an item is likely to qualify as treasure.

We think this will help to alleviate many of our joint concerns around the new significance definition and will also help new detectorists get expert help on something they are unsure about. In the longer term we'd love this type of app to also be one of a range of options to make recording general finds easier too. Again we hope this offer is accepted and progressed quickly, the initial response was very positive.

The NCMD has said they support the principle of significant finds being added to the Treasure Act (1996) definitions. Why?

The NCMD believes defending our hobby is both fighting for your freedoms to detect and doing the right thing for recording and protecting our archeological history.

We believe the majority of our members want to see important, amazing, beautiful finds protected and on show in museums. We enjoy fewer restrictions on our hobby than pretty much any country in the world because of the ability to report important archeological finds and the treasure laws in place to protect them for the nation. Recording finds and following the treasure laws in all 4 UK nations is part of our responsibility in maintaining these freedoms.

However if this new 'significance' classification starts to go beyond the stated intention of protecting only really important national and regional finds then we are fully prepared to step in and fund the cost of legal challenges. Saying that we trust and hope this will not be necessary.