

## **DETECTING ON LAND UNDER HLS (Higher level Stewardship)**

The success, or otherwise of my article “Detecting & Rallies on Land under ELS Agreement” in “Digging Deep” Issue 8 prompted the powers that be in NCMD to ask me to write a sequel about land under HLS agreements. They also told me that because the restrictions on detecting on HLS Land were so simple that my article should also examine why such restrictions exist, should remind readers of the basic restrictions on detecting on ELS land and should tell readers how the NCMD deals with all these problem areas.

### **Why are there so many restrictions on our hobby ?**

I myself had an interesting reminder of why all these restrictions exist when travelling to the last NCMD meeting in February, when I met an Australian detectorist on the train. I told him about the meeting and that while most of my fellow detectorists would be out in the fields detecting, 20 NCMD Officers and Regional Delegates would be sitting around a table in a Northampton Hotel for 5 hours following a 4 page agenda and that there were 3 such NCMD meetings each year. My Oz colleague was incredulous. If there was an NCMD in Oz it would meet every 5 years with two items on the agenda; first to agree that there was nothing to discuss and secondly to have a beer. I told him that I was presenting a half hour paper on Higher Level Stewardship. He was again bewildered but added that to an Aussie Higher level Stewardship would be about a couple of trolley-dolley Sheilas serving up Qantas Grog at 30,000 feet.

The reason for the lack of any restrictions on metal detecting down under became obvious when he added that despite detecting every week for 37 years his oldest find only dated back to 1864. In this country, buried metal work can date back to 2000 BC, although only a small fraction of our finds actually predate 1700 AD. Because of this, and also because of the tendency of archaeologists to exaggerate the amount of ancient finds that we make, our hobby has been subject to various controls and restrictions beginning with the Ancient Monuments and Archaeological Areas Act of 1979, and followed by the Treasure Act of 1996.

### **ELS A Summary of the restrictions on detecting set out in Digging Deep Issue 8**

Environmental Stewardship is the latest set of restrictions and controls imposed on our hobby. In my article on ELS agreement land I explained that on land under ELS agreements dated before 1/10/2008 there were no restrictions on detecting. On land under agreements after that date there were 3 restrictions on metal detecting.

- 1) Detecting on known archaeological sites under grassland is prohibited.
- 2) All detecting has to be undertaken in accordance with the terms of the *Code of Practice for Responsible Metal Detecting* and all finds must be recorded with the PAS.
- 3) Details of large scale detecting events including rallies must be notified to Natural England 12 weeks in advance.

Detectorists who fail to abide by these restrictions are not breaking the law as they would be if they failed to report Treasure. Breach of these restrictions would place the farmer in breach of his contract with Natural England which could cause him to incur substantial penalties and then most likely chuck the errant detectorist off his farm.

It is thus the **farmer's responsibility** to identify *known archaeological sites under grassland* and to determine what is and what if not a *large scale detecting event*. The NCMD's sole function in all this is to draw its members' attention to the contents of the various handbooks.

### **HLS and how it affects detecting**

HLS is best seen as a “bolt on” to ELS. The vast majority of farms “in HLS” are actually in ELS/HLS. ELS is a “whole farm scheme”. A farm is either in ELS or it isn't. (although some fields on an ELS farm are ineligible) HLS is not a “whole farm scheme” and in an ELS/HLS agreement it is likely that only a small part of the farm is under an HLS

agreement. How much of the farm is specifically under an HLS agreement is totally irrelevant for metal detecting purposes. Unlike in ELS, detecting restrictions appeared in the 2005 HLS Handbook which stated "*Do not carry out or permit metal detecting on the archaeological sites on your holding identified in your Farm Environment Plan unless agreed with your Rural Development Service (RDS) Adviser in writing.*" In the 2008 and 2010 Handbooks the term "*Rural Development Service Adviser*" is replaced by "*Natural England Adviser*". (the RDS became part of Natural England on 1/10/2006) This means that detecting on any archaeological site on the entire holding is banned unless NE agrees otherwise. So if, for example a farm under ELS (after 2008) contains 5 archaeological sites of which 2 are under grassland, detecting is permitted on the other 3. But if any of the farm is entered into an HLS agreement, detecting on all 5 sites will be prohibited unless NE agrees otherwise. If there are no archaeological sites on a farm, an HLS agreement would, in theory, have no effect on detecting. In practice, things might not be that straightforward because areas under HLS agreement could well contain Scheduled Ancient Monuments, Sites of Special Scientific Interest, Listed Buildings or Registered Historic Parkland or Gardens. The landowner will be able to advise detectorists in such cases.

### **Clarification of some points and de-bunking a few myths about HLS**

It is important to note that "written permission from Natural England" is all that is needed for the landowner to grant you permission to detect on known archaeological sites on an ELS/HLS holding. The landowner does not need to apply for a "derogation" or an "amendment", both of which are specific devices for altering the terms of the farmer's contract with Natural England and set out as such in the ELS and HLS Handbooks. In order to obtain NE's permission support from the relevant archaeological personnel such as the FLO and/or the County Archaeologist would be helpful if not essential. It is possible that the farmer has signed up to HLS educational management options HN8 and HN9 under which he agrees to allow schools and colleges to visit the farm, mainly to learn about agriculture and food production. Responsible detecting on known archaeological sites on such a farm could enrich the educational process and thus be in the public interest.

The NCMD has in the past heard some of its members claim that "If you record too much stuff on an ELS farm the arkies (archaeologists) will chuck the farm into HLS". This is a myth. For a start recording of finds with the PAS is compulsory on post 2008 ELS agreements so there is no point in moaning about it. There is no doubt that many farmers would like to upgrade an ELS agreement to ELS/HLS since HLS agreements are lucrative and they can also undertake more ELS management options than they can in a simple ELS agreement and thus make more money. But HLS contracts, unlike ELS, are discretionary and will only be allocated if Natural England believes them to represent good value for money. A farmer will also think hard before applying for HLS because in order to obtain an HLS contract he will have to put forward a prima facie case to Natural England at his own expense and then carry out an expensive survey in order to complete a Farm Environment Plan (FEP). If his application succeeds he will be reimbursed some of the costs but if he is unsuccessful he will be out of pocket. Unlike ELS applications, which are a box-ticking exercise, HLS applications are serious undertakings. Farms thus can not be "chucked into HLS by the arkies".

Another myth about ELS and HLS is that the "cross-compliance clauses" can be used to prevent detecting. That was partly true in the old Countryside Stewardship Scheme Agreements.

In ELS and HLS "cross compliance" merely means that the farmer has to comply with various UK or EU farming laws or else he will be in breach of his agreement with NE.

### **Other detecting restrictions and how they affect ELS and HLS**

Detecting on Scheduled Ancient Monuments (SAMs) **anywhere** is illegal unless permission is obtained from English Heritage. Likewise detecting on Sites of Special Scientific Interest (SSSIs) **anywhere** can only take place with permission from Natural England. The ELS and HLS Handbooks make it clear that if a farmer in stewardship allows illegal detecting on SAMs or SSSIs he is once more in breach of contract.

The requirements of the 1996 Treasure Act and the laws relating to the ownership of finds are not affected by ELS or HLS contracts.

### **The more you know about ELS and HLS the easier it is to understand the issues.**

NCMD has written a 16 page summary of the 2010 ELS Handbook and a 10 page summary of the 2010 HLS Handbook. Copies of these have been sent to Regional Officers and are/will be ???on the NCMD website. They are both well worth reading!

There is now no reason why any NCMD member should be ignorant of the way in which ELS and HLS agreements affect his or her hobby.

So my advice is to read these summaries or make sure someone in your club has read them. There are alternatives, such as detecting solely in Wales or Scotland where there is no ELS or HLS. Or maybe try emigrating to Oz where there are no restrictions on detecting to puzzle over. But why not read this article once more and, having fully understood all the restrictions on ELS and ELS/HLS holdings, start searching land under these schemes, find a hoard and then you, the missus and the landowner will be able to afford that expensive holiday Down Under and maybe enjoy some Aussie style Higher Level Stewardship en route. Cheers and good hunting!