

Revising the definition of treasure in the Treasure Act 1996 and revising the related codes of practice

Response Form

You can reply to the consultation by downloading and completing this response form and sending it to treasure@culture.gov.uk. You do not have to reply to all parts of the consultation, you can reply only to the parts that interest you.

The Response Form contains a Disclosure of Responses statement which you must read, understand and agree. If you do not your response may be considered invalid and would not be considered as part of the consultation.

Instructions

Open and save the form, including your name or organisation in the title. Please click on the grey area in each box in order to type in your answer. There is a 1250 character limit (including spaces) for responses on the form. Please email treasure@culture.gov.uk if you have any difficulties with the form.

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I have read and understood the disclosure of responses statement and I agree with its terms

YES

NO

Introduction

The Treasure Act 1996 (The Act) replaced the common law of treasure trove in England, Wales and Northern Ireland in 1997 (Scotland has its own law of treasure trove). Under the Act, finds that are declared treasure by the coroner belong to the Crown. The Secretary of State for Digital, Culture, Media and Sport is responsible for the treasure process and for the preparation and publication of a Code of Practice associated with the Act. Northern Ireland has its own Code, which reflects its different legislation governing archaeological digging.

When a find is declared treasure it is offered to a local or national museum. If a museum expresses an interest in acquiring the find, the finder and landowner and/or occupier of the site become eligible for a share of a reward matching the market value of the find which is paid by the museum. This value is recommended to the Secretary of State by a committee of experts, the Treasure Valuation Committee (TVC). This recommendation can be reviewed by the Secretary of State.

This consultation deals with proposed changes to the Treasure Act 1996 ('the Act'), its associated Code of Practice ('the Code') and the process for finds that may be treasure following a review of the treasure process. The aim of the Act is to ensure that important archaeological items are preserved in public collections.

Aim

The aim of the proposed changes are to improve the treasure process making it more efficient and focused on the aim of preserving significant finds for public collections, and more rational and easier to understand. We are also keen to ensure that there is a sustainable future for the treasure process. The aim of the consultation is to gather views on the proposed changes, and obtain information that will help us to assess the impact of these changes on groups and individuals. We also ask for opinions, suggestions and evidence which will support the development of future policies on the Act, the Code and the treasure process.

Scope of Consultation

The scope of the consultation is divided into five parts. You may wish to complete the whole survey or just the parts most relevant to you.

The five parts are:

- **Section 1: Changes to the Codes of Practice.** The Code has not been updated fully for nearly 20 years. We are proposing amendments which reflect current practice and changes to the

treasure process which will make it more efficient. We are not asking specific questions in the consultation where the changes are purely administrative.

- **Section 2: Changes in the definition of treasure.** Under the Act the Secretary of State has the power to change the definition of treasure through secondary legislation. The proposed changes consulted on here are a static date for treasure, a definition based on the value of a find, and the extension of the definition of treasure to include single gold coins minted from AD43 to 1344 and base metal objects of Roman date, found together.
- **Section 3: Exemption of finds subject to Church of England legal controls.** The Act removed the condition that a find had to have been buried with an apparent intention by the owner to retrieve it, in order to be defined as treasure. This meant that finds that were subject to the Church of England's legal controls were also subject to the Act. During the passage of the Act, the Government undertook to address this issue. We are proposing that finds subject to the legal controls are exempted from the definition of treasure.
- **Section 4: Commencement of sections of the Coroners and Justice Act 2009 (The 2009 Act) Chapter 4 of the 2009 Act relates to treasure.** We propose to commence some provisions of the 2009 (although not the implementation of a central treasure process under a dedicated Coroner for Treasure) which will improve the treasure process. These would introduce an exemption from the coroner's duty to investigate, a duty on a person acquiring an article that might be treasure to report it and an extension of the time available to prosecute offences under the Act.
- **Section 5: The sustainability and long term future of the treasure process.** There has been an increase in the amount of annual treasure cases from below 100 in 1997 to over a thousand yearly since 2014. This success has put a strain on the resources available for the treasure process. We are asking for comments on some initial proposals for managing this problem, further suggestions, and also allowing space for general comments.

About You

Are you responding as a member of the public or on behalf of an organisation or interest group?

- Member of the public
- On behalf of an organisation
- On behalf of an interest group

What is the name and address of the organisation or interest group?

Name of Organisation	Society of Antiquaries of London
Your Name	John Lewis, General Secretary
Address Line 1	Burlington House
Address Line 2	Piccadilly
County	London
Post Code	W1J 0BE
Country	UK
Email Address	jlewis@sal.org.uk

If you are responding on behalf of an organisation or interest group how many members do you have and how did you obtain the views of your members:

circa 3000; via the Policy Committee set up by the Society's Council

We may wish to contact you in order to discuss your response in more detail.

If you are happy to be contacted, please provide your details below. If not, please move on to the next question.

Name	John Lewis, General Secretary
Email Address	jlewis@sal.org.uk

Section 1 - Revisions to the Codes

Questions 1 and 2 relate to Section G of the Codes and Paragraphs 43 to 46 of the Consultation Document.

When a find appears to meet the definition of treasure in the Act, the local coroner holds an inquest to decide if it is treasure. The find is also offered to a museum.

If the museum delays in expressing an interest in acquiring the find, this can lead to further delay in the treasure process and the coroner holding an unnecessary inquest

We propose to introduce a 28 day time limit for museums to express an interest with no answer being an expression of no interest

We propose to ask the coroner to consider delaying an inquest until the museum expresses an interest and the 28 day time limit has expired

Question 1

Do you agree that introducing a time limit for an expression of interest would help to speed up the treasure process?

A 28-day window for a museum's decision on acquisition is unrealistic. Museums need time to assess the find, and whether they can assemble the resources to acquire items. Applications to funding bodies have to be researched and documented; in-house purchase funds rarely exist. Museum support groups have meeting schedules and application processes to be negotiated. The introduction of a tight limit for Museums to express an interest in acquisition, coupled with the requirement on the Museum to research the value of the object to minimise the possibility of withdrawal at a later stage, may lead to more items of lower monetary value being disclaimed. Better support must be built into the process to help museums make earlier decisions on the acquisition of treasure; a time-limit alone will almost certainly not deliver DCMS's aim of seeing treasure items secured in museum collections. The 'expression of interest' process must be fully understood by finders and museums; this requires professional expertise readily on hand to assess the objects found (not just descriptions/photos). An early expression of interest cannot be taken as a commitment and museums must be given sufficient time to be certain about acquisition.

Question 2

What do you think would be the impact of asking the coroner to delay an inquest until an expression of interest is made or the 28 day time limit has expired?

It seems unlikely that such a request would cause coroners significant difficulties. Given that the decision of a museum about acquisition is a factor in whether or not the Crown's interest in the object as treasure is disclaimed, a delay until this is known (whether this is 28 days or some other agreed period) could allow coroners to manage their flow of business more efficiently. According to the PAS scheme website, this step already happens.

Questions 3 and 4 relate Section H of the Codes, Paragraphs 63(3) and (4) E/W Code and 53(3) and (4) NI Code and Paragraph 47 and 48 of the Consultation Document

Sometimes museums have had to withdraw their interest at a late stage, because they didn't appreciate fully the possible value of a find. This means there is a waste in resources and a delay in returning the find to the finder.

We propose to ask museums to research the value of a find before expressing an interest

Question 3

Do you consider that the requirement for museums to research possible value before expressing an interest would reduce the waste of resources caused to the acquiring museum and to the British Museum, National Museum Northern Ireland and National Museum Wales who administer the treasure process?

Question 3

Museums must already take into account the possible financial consequences of expressing an interest in acquiring items of treasure. This proposed step, coupled with a rigid time limit, may not be an effective way of ensuring that the process works to benefit the nation's collections. Museum curators have no experience of valuing items and are barred professionally from doing so. These steps will translate into a need for collecting Museums to commission expensive professional valuation advice at an early stage, leading to museums deciding to disclaim rather than incur these costs. Even if the Code advises museums to undertake a modest amount of diligence this is a slippery slope. The more detailed TVC advice to valuers also suggests that the steps outlined in para 48 of the consultation are only partly effective in reaching a value for potential treasure

Question 4

Do you consider that this suggestion is sufficient to reduce the waste of resources or do you think that there are other actions that would increase the efficiency of the process?

The proposal may not in the longer run reduce overall expenditure on valuation advice, and seems to point the way towards dispersing this among a wider population of mainly local Museums. It is doubtful that local museums will have the budgets to obtain more accurate valuation advice, if this is required of them, as well as raise the purchase money. More positive and proactive steps could be taken to support museums by retaining or paying for advice at a national level that can be accessed by regional museums; by providing a publicly accessible and illustrated and cross-referenced database; by publishing new procedural advice notes for museums and finders; and by campaigning to encourage donation of objects to museums – especially those of known lower value.

Question 5 relates to Section H of the Codes, Paragraph 63(4) E/W Code, 53(4) NI Code and Paragraphs 49 – 55 of the Consultation Document

Under Section 6(3) of the Act, the Secretary of State can disclaim a find, which is then returned to the finder. The administrative procedure is outlined at Paragraphs 48 – 50 E/W and 39 – 41 NI.

At the moment finds that are part of a hoard cannot be disclaimed individually until after the inquest. Where a museum only wishes to acquire part of a hoard, this can cause unnecessary work and expense and a delay in returning the find to the finder.

Paragraph 63(4) E/W and 53(4) NI deal with the administrative procedure for disclaiming part of a hoard following an inquest.

To make the guidance clearer, we intend to add a paragraph to this section stating that where part of a hoard is disclaimed, the administrative procedure at Paragraphs 48 -50 E/W and 39-41NI will be followed

We also propose that the Treasure Secretariat tells the coroner that an inquest is necessary on only part of hoard, so that any finds not wanted by the museum could be returned to the finder at an early stage

Question 5

What effect would clarifying that the Paragraph 48 - 50 and 39 - 41 process will apply where a museum withdraws interest at any stage in the treasure process have?

Questions 6 and 7 relate to Paragraphs 67E/W and 56NI and Paragraphs 56 – 58 of the Consultation Document

Interested parties can submit their own evidence and valuations to the Treasure Valuation Committee (TVC) when they are considering the value of any reward.

So that all evidence is considered together at an early stage, we propose to add to the Codes at this point a time limit of 28 days for interested parties to submit their evidence and valuations. This will run from the circulation of the provisional valuation.

Additionally, where the TVC confirm their original valuation at a second view, they will only consider a further view at their own discretion.

Question 6

What do you think the effect would be of having a time limit on the submission of evidence and

comments?

28 days feels a very tight deadline for all the interested parties to seek and secure their own advice on valuation if they do not agree with the TVC's initial findings. Given that the current spacing between TVC meetings is 6 to 7 weeks, an absolute deadline of 56 days for the submission of evidence and comments would allow cases to be conclusively determined within a cycle of 3 meetings of the TVC.

Question 7

What do you think would be the effect of having a general rule that the TVC will only consider a case twice (this can be increased at their discretion)?

This would be completely justifiable if adequate time (see our response to Q6) is built into the process for all interested parties to commission their own valuation advice.

Question 8 relates to Paragraphs 67 E/W and 56 NI and Paragraphs 59 – 62 of the Consultation document

Figures provided by the Treasure Secretariat show that in 2015, nearly a third of treasure finds were valued at less than £115, the average cost of a provisional valuation.

We propose that the Treasure Secretariat screens finds in future, and that lower value finds are valued at first view, by the TVC. Interested parties would be able to submit their own evidence and valuations.

This would save money and time in the treasure process

Question 8

What do you think the effect of screening lower value finds would be?

There is a case for screening lower value finds and removing them from the formal valuation system. But this task cannot be given to the TVC as currently constituted. It makes balanced recommendations based on independent valuations provided by a pool of professional valuers. Its members thus include commercial/auction house experts who can deliver professional valuation advice, as well as museum professionals, who cannot. TVC members would need to have up-to-date knowledge of sales, which requires experience. This is at variance with the requirement for public appointments to the TVC to be only for a fixed term, with a consequent rolling loss of continuity . The TVC guidance to its valuers gives a 13-point series of considerations applied to all finds. If the TVC does not adhere to this guidance, its conclusions would be called into question. One way of “professionalising” the screening of possible lower-value finds, would be for the Treasure Secretariat to let competitive contracts to relevant firms or individuals for a set number of valuations over an agreed period. This service could be used by local Museums.

Questions 9 and 10 relate to Paragraph 70 E/W Code, Paragraph 59 NI Code and Paragraphs 63 - 66 of the Consultation document

Once the TVC’s recommendation is accepted by the Secretary of State the finder and landowner and/or occupier are asked for their bank details. There is currently no time limit for the details to be provided. The Treasure Secretariat and DCMS are holding money from the backlog of cases where the interested parties have not provided details, which is not a good use of public money. In order to manage resources more efficiently we propose to introduce a six month time limit for interested parties to provide details. This six months would begin from the notification of the amount and the allocation of

the reward

Question 9

Do you think that there are any disadvantages to only allowing six months for bank details to be submitted?

no

Question 10

In those circumstances, would it be appropriate for any reward that cannot be paid to the desired recipient because they have not provided bank details to be returned to the acquiring museum?

yes

Questions 11 and 12 relate to Paragraph 70 E/W Code, Paragraph 59 NI Code and Paragraphs 67 - 73 of the Consultation document

The treasure process can be delayed where the landowner and/or occupier is not identified. The finder is responsible for reporting a find and providing information about the landowner and/or occupier. Circumstances may arise where the finder is unable to provide the information. For example, because they haven't recognised a find as possible treasure for a long period of time and are unable to

recall where they made the find. If we take forward the proposal to extend to acquirers a duty to report a possible treasure object or coin to the coroner (See Paragraphs 121 - 133 of the Consultation document) the acquirer may well not know where the object or coin was found. We propose that where the landowner and/or occupier's details remain unknown the Treasure Secretariat or SCMS would retain the landowner and/or occupier's share of the reward for 12 months before it would be returned to the museum.

Question 11

Do you see any disadvantages in the suggestion that in circumstances where a landowner and or occupier cannot be identified, the reward money payable to the landowner and or occupier would be retained for 12 months and then returned to the museum?

No, but there may be administrative difficulties for museums and third-party funding bodies to overcome and which would need to be accounted for within funding agreements, terms & conditions. Arrangements also have to be made for those cases where funds have been raised by public appeal – eg ring-fencing them for identified purposes relative to the future acquisition of treasure.

Question 12

In those circumstances, would it be appropriate for any reward that cannot be paid to the desired recipient because they cannot be identified to be returned to the acquiring museum?

Yes, but see our answer to Q11 above

Questions 13 and 14 relate to Section J Rewards, Paragraph 81 E/W Code, Paragraph 70 NI Code and Paragraphs 74 - 77 of the Consultation document

The Codes state that archaeologists and those engaged on an archaeological excavation or investigation are not eligible for a reward. The TVC decide when an interested party meets that definition. Misunderstandings can arise where a finder subsequently takes part in an archaeological investigation on the site of their find. We propose to add the following definitions of an archaeologist and of those engaged in archaeological excavation in the Codes to provide clear guidance to interested parties and the TVC. Archaeologist: A professional, student, volunteer or amateur engaged on a planned study of the landscape where the primary goal is to understand past activity through an assessment of all traces of human activity

Archaeological excavation or investigation: A planned study of the landscape that aims to record all traces of human activity thereon. It can be conducted by professional units, educational institutions or societies

Question 13

Do you consider that the proposed definitions of archaeologist and archaeological excavation or investigation are accurate?

Not entirely. The definition of Archaeologist seems a realistic one. The definition of Archaeological excavation or investigation should include all groups that undertake archaeological excavations and investigations, including those that are non-invasive, whether in a paid or voluntary capacity and that this includes such activities undertaken by community groups.

Question 14

Do you see any disadvantages in having these definitions in the Code?

no

Question 15 relates to Section L Speed of Handling Cases Paragraph 87 E/W Code, 76 NI Code and Paragraphs 78 - 81 of the Consultation document

The Codes contain deadlines which aim to provide focus for the institutions and individual who participate in the treasure process. Research by the Treasure Secretariat indicates that delays occur at the beginning and the end of the process. In order to address this we propose to replace the current deadlines with those below, focusing on the beginning and end of the process. The curator or FLO's provide reports for the coroner, which puts forwards the reasons why a find falls under the Acts definition of treasure. We will propose that these should be written within three months of the find being reported. Coroners should consider holding inquests within three months of receiving a request to do so from the Treasure Registry, in accordance with Paragraph 12 of the Chief Coroner's guidance: Treasure - A Practical Guide for Coroners Museums should endeavour to pay for acquisitions within three months

Question 15

Do you think that these times would improve the rate at which treasure cases are resolved?

Aside from the case of exceptional finds, these times would probably improve the resolution rates. But since the proposed deadlines are only advisory, real life may not match the expected results

Question 16 relates to Paragraph 87 E/W Code, After Paragraph 79 NI Code and Paragraphs 82 – 84 of the Consultation document

When a reward is finalised the acquiring museum is invoiced for that amount, with payment expected within three months. Understandable delays in payment can occur, but we appreciate that this can be frustrating for the interested parties. We propose therefore that where a payment has been delayed longer than three months the acquiring museum would be required to provide an explanation and an indication of the expected time for payment.

Question 16

Can you see any disadvantages to a requirement for acquiring museums to explain delays in payments?

no

Section 2 - Revisions to the definition of treasure in the Act

Questions 17 and 18 relate to Section 1.1 (a) of the Treasure Act 1996 and Paragraphs 85 - 88 of the Consultation document

Under Section 1.1 (a) of the Act, treasure is defined as objects 300 years old or older. This means that shortly a large volume of mass produced articles could be bought into the scope of the Act. In order to focus resources on significant archaeological, cultural and historical finds we propose to change the definition from a sliding date into a static date of pre- 1714. We understand that there is a risk that significant objects could not be preserved for public collections, and we have addressed this at length in the Consultation document.

Question 17

Do you think that changing to a static date is a good idea?

A moving date which sets the limit at 300 years old is better than deciding on a particular date and never changing it, because people in the future might take a greater interest in 18th cent. artefacts than we do today. And the Export deferral process, offered as a possible backstop, only captures a small proportion of “national treasures” where an application is made for their removal out of the UK.

Question 18

Do you think 1714 is an appropriate date?

No. We favour a moving date, as at present. We also feel that the 1714 cut-off date is artificial in respect of the cultural, historical and archaeological significance of finds and that rolling date should be brought forward, perhaps to 100 or 150 years, if there are clear criteria for the evaluation of finds (see below under Q20). The Industrial revolution is recognised outside the UK as being of global significance. There should be provision to recognise and designate its products as Treasure if they are of outstanding historical, archaeological or cultural importance in order that museums have the opportunity to purchase and display them.

Questions 19 and 20 relate to changes under Section 2(1) of the Act and Paragraphs 89 - 94 of the Consultation document Research by the British Museum indicates that most finds worth over £10,000 would usually fall within the current definitions of treasure. However, there are rare and important articles such as the Crosby Garrett helmet which do not, and have consequently been sold into private collections. We propose to designate an additional class of treasure for the purposes of section 1(1) (b) of the Act: objects that meet the age criterion (i.e. are at least 200 years old when found) and have a value of over £10,000. Our aim is that this definition should be flexible enough to capture important objects while excluding finds that are more common and less likely to be acquired by museums. Details of how we see the process working, and the management of the risks of defining a find as treasure based on its financial value are considered in the consultation document in Paragraphs 87 - 92.

Question 19

What view do you have of the proposed value based definition and what impact would it have?

The need to find a means of identifying important finds other than those of precious metal is clear. Basing this on (estimated) market value, however, is flawed: how can finders, curators, or even TVC members identify a value above £10,000?

A value-based definition is very wide, and could capture material of all kinds. This could have a big impact within archaeological excavations, where the definition could include objects of pottery, glass, bone, textiles and other organic materials (eg the Vindolanda tablets).

We therefore think that the Government should consider excluding 'treasure' finds arising from professional archaeological excavation and fieldwork from the scope of the legislation. An additional requirement for excavation site directors to identify and report within 14 days any of the objects they have found which fall within this value-based criterion seems unnecessary and burdensome.

Question 20

Do you think that there is any more appropriate way to ensure that important finds which do not currently fall within the definition of treasure are retained?

Question 20

The criterion of a specific market value is at best a crude additional proxy for true heritage value. It would be welcome if explicit approaches to the definition of 'treasure' clearly embed from the outset recognition that an object or finds can also have a value in national and public heritage terms that is not reflected either in the material they are made of or their value in a commercial market. We need a system whereby finds could be evaluated – perhaps against Waverley-type criteria – so that those which merit treatment within the treasure process can be identified by some expert and authoritative body. The criteria for such designations should be explicit, but could also then be capable of revision and able to evolve, while they could also be contextually sensitive and variable. The whole system, represented here by references to 'museums' and 'archaeologists', badly needs a joined up policy, and one that ensures that an adequate minimum level of provision across the functions presupposed is maintained. The Society's proposal for a system of 'regional hubs' representing and coordinating all of these branches of the field (and more) could be a valuable component in a strategy that would achieve that.

Questions 21 and 22 relate to a change under section 2(1) of the Act and to Paragraphs 95 to 97 of the Consultation document

Currently single gold coins do not fall under the definition of treasure. We propose to add a definition to include all single coin finds of any origin dated between AD43 and 1344, when Edward III re-introduced gold coinage in England. Recorded finds of coins of this time are rare, and indicate the lack of gold coins circulating at that time. The aim of this change is to focus resources on significant coins and avoid bringing into the scope of the act more common finds.

Question 21

What view do you have of the proposed designation for single gold coins and what impact would it have?

If introduced, this could have the effect of increasing the number of lower value items which need to be screened, putting additional strain on the resourcing for the scheme.

Question 22

Would AD43 to 1344 be the most appropriate dates for defining single gold coins as treasure?

We understand that the finds of single gold coins of the Iron Age (IA) are much more numerous than those of other periods, and, if included, could increase the numbers of reportable objects significantly. It is also likely that, due to their small size, high value, and ease of disposal, single IA gold coins have been under-reported to the Portable Antiquities Scheme. Including them as treasure and potentially having knowledge of all coins found, including their location and context, could therefore improve research and wider public benefits.

They will on occasion, however, still be of interest to Museum collections, and their inclusion as reportable finds would allow individual IA coins to be considered by them as part of the treasure process. We would therefore include single coins of IA date.

Question 23 relates to a Change under Section 2(1) of the Act and Paragraphs 98 to 100 of the Consultation document

In 2009 the Royston Roman hoard was only preserved for a public collection because one object had a small amount of silver in it. In order to ensure that significant objects are preserved for public collection, we propose to extend the definition of treasure. The definition will include closed deposits (where objects and/or coins are believed to have been intentionally buried together) of base metal objects, where at least two of the objects are of Roman date.

Question 23

What do you think the impact would be of widening the definition of treasure to include objects any part of which is base metal, which form part of a group of articles of Roman date intentionally buried together?

We are in favour of extending the Designation Order to include objects of base metal as described, despite the difficulty of determining what constitutes a group of objects originally buried together. However, we consider that limiting the extension of this category to the Roman period could be too limiting; the proposal appears to be reacting to past cases rather than envisaging future needs. For example, a Saxon ship burial without gold or silver grave goods, but with weapons, bronze and glassware finds, not at present reportable, would be a significant find of national treasure, which would probably be classed as such within "Waverley-type" criteria if they could be introduced. As with our response to Q22, a duty to report items as treasure does not automatically mean that a Museum must express an interest in acquisition; and the duty to report affords the opportunity for the importance of a new find to be assessed.

Section 3 Exemption of objects subject to Church of England statutory regimes

Question 24 and 25 relate to changes under Section 2.2 of the Act and Paragraphs 101 – 118 of the Consultation document

The Act removed the common law requirement for a treasure find to have been apparently buried with an intention to retrieve by the original owner. This brought into the scope of the Act objects which had been buried in association with human interments in ground consecrated according to the rites of the Church of England. These objects are also subject to the Church of England's own systems of control, which are part of primary legislation.

The Government undertook to address this situation during the passage of the Act. We propose that finds that fall under the Church of England's own systems of control are exempted from the definition of treasure. Further details of the systems of control and the proposed exemptions can be found in the Consultation document.

Question 24

What do you think the effect would be of limiting objects that fall under the Care of Cathedrals Measure 2011 and the Faculty Jurisdiction to one legal system?

We understand that these proposed changes fulfil a commitment made to Parliament in 1996. If the net effect here would be to simplify the process for the few cases which fall under this Measure, we are in favour.

Question 25

Do you consider that the Care of Cathedrals Measure 2011 and the Faculty Jurisdiction are sufficient to protect finds which fall under those systems?

yes

Question 26 relates to the commencement of Section 29 of the Coroners and Justice Act 2009 (the 2009 Act) and Paragraphs 122-123 of the Consultation document

Section 29 of the Act provides that the coroner can decide not to begin or continue with an investigation where the Secretary of State disclaims a find that has been reported as possible treasure. We propose to commence this provision which would remove the need for the coroner to hold an inquest where no museum has declared an interest in an object or coin and would allow it to be returned to the finder.

Question 26

What effect do you think giving coroners the power not to conduct an inquest into treasure would have?

We do not have a view on this

Section 4 Commencement of measures in the Coroners and Justice Act 2009

Questions 27 and 28 relate to the commencement of Section 30 of the 2009 Act and Paragraphs 124-134 of the Consultation document

Since the introduction of the Act, the environment in which it operates has changed, the introduction of online markets has made it easier for the rare unscrupulous finder to sell an undeclared find. In order to address this problem we propose to commence Section 30 of the 2009 Act. This would insert Section 8A into the text of the Treasure Act and would create a duty on anyone who acquired a possible treasure object or coin to report it to the coroner. Section 8A would create a criminal offence of failing to notify the coroner where a possible treasure finds has been acquired and there has been no investigation. In addition, commencing Section 30 will introduce a presumption when offences under Section 8 of the Treasure Act are prosecuted that, in the absence of other evidence, finds in England and Wales were made after the commencement of the Treasure Act.

Question 27

What effect do you think the extension of the duty to report a possible treasure find to a person who acquires a find would have?

We agree that a means of clamping down on unregulated sales of items which should have been reported as treasure is required. In order to do this, a definition of "find" within the 1996 Act is urgently required. Without a tighter definition, any form of inheritance, acquisition or casual selling (eg car-boot sales), where previously unrecognised items can appear, could trigger the requirement under this new duty to notify the Coroner. This, coupled with a value- and age-based definition of treasure (as at paras 89-94 and Q19) would bring spectacular discoveries, such as the Staffordshire Pottery owl slipware jug now in Stoke Museum or Charlotte Bronte's memorial ring, within the new classification of treasure. The application of this step to "finds" of fine art could also be immense.

Question 28

Do you have any other comments on these proposals to commence these elements of the 2009 Act?

The implementation of Section 8A of the Treasure Act, along with other proposals in this consultation, would introduce substantial new complexities into the purchase, inheritance, or the giving away of any object, whatever its provenance, which, under the proposed widened definitions, could be defined as treasure. The proposed duty to report items as Treasure needs a measured interpretation of the word “find” and the circumstances within which an object is “found” in order properly to identify those items which have been discovered and unearthed from the ground, to clarify what falls within the scope of the Treasure Act 1996.

Question 29 relates to the commencement of Sections 8B and 8C of the Treasure Act and Paragraph 135 of the Consultation document.

Section 8C will increase the length of time allowed for proceedings under Section 8.

Question 29

What effect do you think extending the lengthening of time for bringing proceedings for prosecution would have?

We do not have a view on this

Section 5 The long term future of the treasure process and its sustainability

Questions 30 and 31 relate to the long term sustainability of the treasure process and Paragraphs 136

– 143 There has been increase in annual treasure cases from below 100 per year in the mid-1990s to over a thousand per year since 2014. The overwhelming majority of these finds have been made by metal detectorists who have been instrumental in preserving unique finds such as the Ringlemere Cup

for public collections and the creation of the PAS database. Given this increase in cases the question of the long term financial sustainability of the treasure process arises and how it can continue to support the aims of the Act to preserve objects of cultural, historic and archaeological importance for the public. In order to address this we have put forward some suggestions on the future form of the process. These are:

- the introduction of a process similar to that in Scotland, whereby all archaeological objects become the property of the Crown;
- strengthening educational outreach to the full spectrum of the metal detecting community in order to encourage the proactive reporting of finds and adherence to the Code of Practice for Responsible Metal Detecting and the treasure process; and
- the introduction of a regulation as in Northern Ireland where archaeological digging of any sort (both by professional archaeologists and others) is only allowed by permit

The aim of these suggestions is to open initial debate and to encourage other suggestions for the long term sustainability of the treasure process

Question 30

What are your views on these preliminary suggestions on the future form of the treasure process?

We welcome this forward-looking consultation and look forward to constructive discussions about the options with the interested parties. The Scottish system of automatic Crown ownership, if introduced in England and Wales, would doubtless meet a great deal of resistance from landowners, as well as requiring vastly more resources expended on valuations and time spent on negotiation over rewards than at present. This would be a hugely expensive step and the reverse of sustainable.

Extension of the current Northern Irish statutory and administratively heavy system of excavation permits to England would also be impractical given that the number of excavations in England is considerably higher, and as it would be a new burden it would presumably require primary legislation. However, a lighter-touch process, not necessarily aimed at regulating excavations but requiring only basic information about all of them (where, when and by whom) including those by detectorists would potentially be of significant public benefit. The current reasonably successful system of Home Office Licences for the removal of burials may be a useful model to work with.

Question 31

Do you consider that there is a different approach to changing the process which would support its long term sustainability?

It would seem appropriate for the Govt to levy an administrative fee on the more substantial rewards paid to finders and owners to support the treasure process overall.

Question 32 relates to additional comments on the proposed changes and to Paragraphs 144 of the Consultation document

Question 32

Do you have any additional comments on the proposed changes to the Code and to the legislation governing the treasure process?

The issue of the best use of scarce resources, at DCMS, BM, or local Museum level, to underpin the Treasure process runs through much of the commentary and questions in this consultation. This reflects the tight restraint on public finances during the past decade. As a result, the overall balance in the proposed changes between financial constraints and need to conserve nationally significant portable antiquities for the benefit of the nation has shifted too far in favour of the former. In particular, we consider that the consideration of the significance of portable antiquities – other than by their date – should have a much greater role in the definition of Treasure. If we want a more effective system for protecting/archiving/displaying archaeological artefacts, whether or not defined as ‘treasure’, it will cost money.