



Isle of Man

Ellan Vannin

AT 2 of 2017

TREASURE ACT 2017



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TREASURE ACT 2017

Signed in Tynwald: 21 February 2017
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AN ACT to abolish treasure trove; to make fresh provision with respect to the determination of whether found objects are treasure; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Treasure Act 2017.

2 Commencement

- (1) This Act (other than this section and section 1) comes into operation on such day or days as the Treasury by order appoints and different days may be appointed for different provisions and for different purposes.¹
- (2) An order under subsection (1) may make such consequential, incidental, transitional and saving provisions as the Treasury considers necessary or expedient.

3 Interpretation

P1996/24/3

- (1) In this Act —

“**coin**” includes any metal item which was, or can reasonably be assumed to have been, used or intended for use as or instead of money;

“**coroner**” has the same meaning as that contained in section 22(1) of the *Coroners of Inquests Act 1987*;

“**inquiry**” means an inquiry held under section 10;

“**precious metal**” means gold or silver;

“**treasure**” is to be construed in accordance with section 4; and

“**the Trust**” means the Manx Museum and National Trust.

- (2) 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.
- (3) 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.
- (4) 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.

4 Meaning of “**treasure**”

P1996/24/1&2

- (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% by weight is precious metal;
 - (ii) is one of at least 2 coins in the same find of which at least 10% by weight is precious metal; or
 - (iii) is one of at least 10 coins in the same find;
 - (b) any object (other than a coin), any part of which is a base metal, which, when found is one of at least 2 base metal objects in the same find which are of prehistoric date;
 - (c) any object, (other than a coin) which is of prehistoric date, and any part of which is gold or silver;
 - (d) any object which would have been treasure trove if found before the commencement of section 6 (treasure to vest in the Treasury in trust for the Crown);
 - (e) any object which, when found, belongs to a class designated under subsection (2);
 - (f) any object which, when found, is part of the same find as —

- (i) an object within paragraph (a), (b), (c), (d) or (e) found at the same time or earlier; or
- (ii) an object found earlier which would be within paragraph (a), (b), (c) or (e) if it had been found at the same time;
- (g) any object which, when found, in the opinion of the Trust, is —
 - (i) so closely connected with Manx history and national life that its loss would be a misfortune;
 - (ii) of outstanding aesthetic importance; or
 - (iii) of outstanding significance for the study of any branch of Manx art, learning or history.
- (2) The Treasury may by order, for the purposes of subsection (1)(e), designate as treasure any class of object which it considers to be of outstanding historical, archaeological or cultural importance.
- (3) Treasure does not include objects which —
 - (a) are unworked natural objects;
 - (b) are minerals as extracted from a natural deposit; or
 - (c) belong to a class designated under subsection (5).
- (4) An object is not treasure if it is wreck within the meaning of section 38(1) of the *Wreck and Salvage (Ships and Aircraft) Act 1979* (interpretation).
- (5) The Treasury may by order, for the purposes of subsection (3)(c), designate any class of object which (apart from the order) would be treasure.
- (6) In subsection (1) —
 - “base metal” means any metal other than gold or silver; and
 - “prehistoric date” means dating from the Manx Iron Age or any earlier period.
- (7) An order under this section must not come into operation unless it is approved by Tynwald.

5 Power to amend the meaning of “treasure”

- (1) The Treasury may by order amend section 4.
- (2) Before making an order under subsection (1), the Treasury must consult such persons as it considers appropriate.
- (3) An order under subsection (1) must not come into operation unless it is approved by Tynwald.

PART 2 – FINDING OF TREASURE

6 Treasure to vest in the Treasury in trust for the Crown

P1996/24/4

- (1) Treasure that is found vests in the Treasury in trust for the Crown.
- (2) However, this is subject to any prior interests and rights —
 - (a) held when the treasure was left where it was found or, if the treasure was moved prior to being found, held when it was left for the first time;
 - (b) deriving from those mentioned in paragraph (a).
- (3) If the treasure would have been treasure trove if found before the commencement of this section, the Treasury does not have any interest in it or right over it except in accordance with this Act.
- (4) This section applies irrespective of —
 - (a) the nature of the place where the treasure was found; and
 - (b) the circumstances in which it was left (including being lost or being left with no intention of recovery).

7 Transfer, disposal and disclaimer

P1996/24/6

- (1) Treasure vesting in the Treasury in trust for the Crown under section 6 may be transferred, or otherwise disposed of, in such way as it thinks fit.
- (2) The Treasury's title to any such treasure may be disclaimed at any time by a notice by the Treasury.
- (3) If the Treasury's title is disclaimed, the treasure is deemed not to have vested in the Treasury in trust for the Crown under this Act.

8 Duty to notify the Trust

P1996/24/8&8A

- (1) A person who —
 - (a) finds an object which he or she believes or has reasonable grounds for believing is treasure; or
 - (b) acquires property in an object in relation to which notice has not already been given to the Trust and believes or has reasonable grounds for believing —
 - (i) that the object is treasure; and
 - (ii) that no such notification has been given,must notify the Trust before the end of the notice period.
- (2) The notice period is —

- (a) in relation to subsection (1)(a), 14 days beginning with —
 - (i) the day after the object is found;
 - (ii) if later, the day on which the person who found the object first believes or has reason to believe the object is treasure;or
 - (b) in relation to subsection (1)(b), 14 days beginning with —
 - (i) the day after the person acquires property in the object; or
 - (ii) if later, the day on which the person first believes or has reason to believe that the object is treasure and that notification is required to be given under subsection (1).
- (3) A person who fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to custody for not more than 12 months, a fine not exceeding £5,000, or both.
- (4) In proceedings for an offence under this section, it is a defence for the defendant to show that he or she had, and has continued to have, a reasonable excuse for failing to notify the Trust.
- (5) In determining for the purposes of this section whether a person has acquired property in an object, section 6 (treasure to vest in the Treasury in trust for the Crown) is to be disregarded.
- (6) An object in respect of which notification has been given under subsection (1)(b), is to be presumed, in the absence of evidence to the contrary, to have been found after the commencement of section 6.
- (7) This section does not limit section 20 of the *Manx Museum and National Trust Act 1959* (reports of finding of archaeological objects).

9 Delivery of objects to the Trust after a notification has been made

- (1) A person who makes a notification in accordance with section 8(1) (duty to notify the Trust) must, if the Trust so requires, deliver (or arrange for the delivery of) the object to it in accordance with such directions, if any, as it may give.
- (2) When the Trust receives an object under subsection (1), it must —
- (a) provide the person delivering it with a receipt for, and an image of, the object; and
 - (b) notify the Treasury and the coroner.

10 Inquiry

- (1) The coroner must hold an inquiry to determine whether an object is treasure —

- (a) if he or she considers that the Trust has reasonable grounds for believing that a notification under section 8(1) (duty to notify the Trust) relates to an object which may be treasure;
 - (b) unless the Treasury's title has been disclaimed under section 7(2).
- (2) The coroner may appoint one or more assessors to assist in his or her deliberations.
- (3) The coroner may order any person to provide any document or information for the purposes of the inquiry and direct any person to give evidence at the inquiry, either orally or in writing.
- (4) An inquiry under this section must be held in public and the provisions of the *Coroners of Inquests Act 1987* as they apply to inquests shall with any necessary modifications apply to such an inquiry.
- (5) An inquiry is to be held without a jury unless the coroner directs otherwise.

11 Notification requirements in relation to inquiry

P1996/24/9

- (1) Before holding an inquiry in relation to an object the coroner —
 - (a) must notify the Trust and the Treasury;
 - (b) must take reasonable steps to notify any person who —
 - (i) may have found the object;
 - (ii) may have acquired property in the object;
 - (iii) at the time the object was found, occupied land where the object was found or where the coroner believes it may have been found.
- (2) During the inquiry the coroner must take reasonable steps to notify any such person not already notified.
- (3) Before or during the inquiry, the coroner must take reasonable steps —
 - (a) to obtain from any person notified under subsections (1) or (2) the names and addresses of interested persons; and
 - (b) to notify any interested person whose name and address he or she obtains.
- (4) The coroner must take reasonable steps to give any interested person notified under this section an opportunity to examine witnesses at the inquiry.
- (5) In this section, “interested person” means a person who appears to the coroner to be likely to be concerned with the inquiry —
 - (a) as the finder of the object or otherwise involved in finding it;
 - (b) as having acquired property in the object;

- (c) as the occupier, of the land where the object was found, at the time it was found;
- (d) as having had an interest in that land at that time or since; or
- (e) as having any other substantial interest in the matter.

12 Acquisition of treasure by the Trust or other museums

- (1) The Treasury must ask the Trust whether it wishes to acquire any treasure to which the Treasury has title and if so, the Trust may retain the object.
- (2) If the Trust does not wish to acquire the treasure for a museum under its control, the Treasury may then ask such other museums (wherever situated) as it thinks fit if they wish to acquire it.
- (3) If a museum wishes to acquire the treasure in accordance with subsection (2), the Trust must transfer it to the museum in accordance with directions given by the Treasury.

13 Custody of other objects

- (1) Subsection (2) applies if the Trust has custody of an object —
 - (a) in relation to which the Treasury has disclaimed its title under section 7(2);
 - (b) which the Trust does not have reasonable grounds for believing is treasure;
 - (c) in relation to which the coroner does not consider that the Trust has reasonable grounds for believing that a notification under section 8(1) (duty to notify the Trust) relates to an object which may be treasure;
 - (d) which, following an inquiry, is determined not to be treasure; or
 - (e) which the Trust or another museum does not wish to acquire by virtue of section 12.
- (2) If this subsection applies the Trust must take reasonable steps to inform each of the persons mentioned in subsection (3) that the object will be released to the person who made the notification in accordance with section 8(1) unless a person listed in subsection (3) delivers to the Trust written objection within 28 days from the date of the notification.
- (3) The persons are —
 - (a) the person who made the notification in accordance with section 8(1);
 - (b) any other person involved in finding the object;
 - (c) any person who may have acquired property in the object;

- (d) the person who was the occupier, of the land where the object was found, at the time it was found; and
 - (e) any person with an interest in the land, or who had such an interest at the time the object was found.
- (4) If the Trust does not receive a written objection in accordance with subsection (2), it must release the object to the person who made the notification in accordance with section 8(1).
- (5) If the Trust receives a written objection in accordance with subsection (2), it must retain custody of the object until any dispute as to its legal title has been resolved.

14 Rewards

P1996/24/10

- (1) If treasure —
- (a) has vested in the Treasury in trust for the Crown under section 6 (treasure to vest in the Treasury in trust for the Crown); and
 - (b) has been acquired by the Trust,
- the Treasury must determine whether a reward is to be paid.
- (2) If the Treasury determines that a reward is to be paid, it must also determine, in whatever way it 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.
- (3) The total reward must not exceed the treasure's market value.
- (4) The reward may be payable to —
- (a) the finder of the treasure or any other person involved in finding it;
 - (b) a person who has legitimately acquired property in the treasure;
 - (c) the occupier of the land at the time of the find;
 - (d) any person who had an interest in the land at that time, or has had such an interest at any time since then.
- (5) Payment of the reward is not enforceable against a museum, the Trust or the Treasury.
- (6) If the Treasury determines that a reward is payable under this section it may withhold all or part of that reward in such circumstances as it thinks fit.

- (7) No reward is payable under this section if the treasure is found by a person whom the Treasury considers to be an archaeologist or a person engaged on an archaeological excavation or investigation.
- (8) In making a determination under this section, the Treasury must take into account the code of practice issued under section 16.

15 Rewards: treasure transferred to a museum outside the Island

- (1) This section applies when treasure is to be transferred to a museum outside the Island by virtue of section 12.
- (2) In a case to which this section applies, the Treasury must determine, before the transfer takes place, whether a reward is to be paid by the museum.
- (3) Section 14(2) to (8) applies for the purposes of this section.

16 Code of practice

P1996/24/11

- (1) The Treasury 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 Treasury —
 - (a) when considering to whom treasure should be offered;
 - (b) when making a determination under section 14 (rewards); and
 - (c) where the Treasury's title to treasure is disclaimed under section 7(2).
- (3) The code may include guidance for —
 - (a) those who search for or find treasure;
 - (b) the Trust; and
 - (c) museums and others who exercise functions in relation to treasure.
- (4) Before making the code or revising it, the Treasury must consult such persons appearing to it to be interested as it thinks appropriate.
- (5) Any code (including a revised code) must be laid before Tynwald as soon as practicable after it is made.
- (6) The Treasury must publish the code in whatever way it considers appropriate for bringing it to the attention of those interested.

PART 3 – TRANSITIONAL PROVISION, AMENDMENTS AND REPEALS

17 Transitional provision

Nothing in this Act affects any object found before this Act comes into operation and any such object is to be treated in accordance with the law previously in operation.

18 Amendment of the Manx Museum and National Trust Act 1959

- (1) The *Manx Museum and National Trust Act 1959* is amended as follows.
- (2) In the definition of “archaeological object” in section 2(1) (interpretation), for “treasure trove” substitute **“treasure”**.
- (3) In section 20 (reports of finding of archaeological objects) —
 - (a) for subsection (1) substitute —

“(1) A person who finds an object which he or she believes or has reasonable grounds for believing is an archaeological object must notify the Trust before the end of the notice period and permit the Trust to inspect, examine or photograph the object.
 - (1A) The notice period is 14 days beginning with —
 - (a) the day after the object is found; or
 - (b) if later, the day on which the person who found the object first believes or has reason to believe the object is an archaeological object.
 - (1B) The notification must include —
 - (a) the name and address of the person who found the object;
 - (b) the nature and character of the object;
 - (c) details of the time and place at which, and the circumstances in which, the object was found; and
 - (d) any other information requested by the Trust in relation to the object. **“”**.
 - (b) in subsection (2) —
 - (i) for “summary conviction at the suit of the Trust to a fine not exceeding £1,000” substitute **“summary conviction to custody for not more than 12 months, a fine not exceeding £5,000, or both”**; and
 - (ii) in paragraphs (c) and (d) omit “a member of the police or the officer of”.

19 Repeal of the Treasure Trove Act 1586

The *Treasure Trove Act 1586* is repealed.

20 Repeal of section 18 of the Coroners of Inquests Act 1987

Section 18 of the *Coroners of Inquests Act 1987* (treasure trove) and the cross-heading preceding it are repealed.

ENDNOTES

Table of Endnote References

¹ ADO – s.16 in operation 29/06/2017 for the purposes of publishing a code of practice relating to treasure and on 01/10/2017 for all other purposes. Remaining provisions in operation 01/10/2017 [SD2017/0200].