



# Metal Detecting Yes or No?

METAL DETECTING, SCHEDULED MONUMENTS AND THE LAW

## METAL DETECTING, SCHEDULED MONUMENTS AND THE LAW

Many people in Scotland own and use metal detectors – as individuals, as part of clubs and as members of archaeological projects. This leaflet is for landowners, occupiers and managers of archaeological sites and monuments as well as detectorists, including those using metal detectors for work purposes. Its aim is to set out the position in non-legal terms and to encourage the co-operation of everyone to ensure that we protect archaeological sites and monuments.

*Detectorists working with archaeologists at Culloden battlefield. ©The National Trust for Scotland/Jill Harden.*



## LEGISLATION

### When does the law not permit metal detecting?

It is a criminal offence (under section 42 of the Ancient Monuments and Archaeological Areas Act 1979) to use a metal detector on a scheduled monument or a monument in the ownership or guardianship of Scottish Ministers, or of a local authority, without prior written permission from Scottish Ministers. (A scheduled monument is a monument of national importance that Scottish Ministers have given legal protection under the 1979 Act.)

Scottish Ministers may give permission to use a metal detector within a protected area with or without conditions. It is an offence to fail to comply with any of the conditions attached to consent. It is also an offence to remove any object of archaeological or historical interest from such a monument found using a detector. There have been successful prosecutions in Scotland for illegal use of metal detectors.



*At Traprain Law, East Lothian, Scottish Ministers gave archaeologists consent for an excavation involving the use of metal detectors. Courtesy National Museums Scotland.*

## ADVICE TO LANDOWNERS, OCCUPIERS AND MANAGERS

### What should I do if detectorists ask to work on a scheduled monument?

Responsible detectorists will always seek the permission of landowners before working on their land (this includes the foreshore), and will avoid legally protected sites or activities that could damage sensitive places. Inform them of the land's legal protection and refer them to Historic Scotland. If they ignore you, or simply start work without seeking permission, and you think they are on a scheduled area, call the police or contact Historic Scotland.



© The NCMD  
Scottish Region.

If you are happy to allow detectorists to work near a scheduled monument, be sure that you and they know the **exact** limits of the protected area on the ground. If you permit work that damages a scheduled monument, this may be an offence. Copies of scheduling documents and maps are available for download from the PASTMAP website <[www.pastmap.org](http://www.pastmap.org)>; see also Historic Scotland's website <[www.historic-scotland.gov.uk/searchmonuments](http://www.historic-scotland.gov.uk/searchmonuments)>.

If you are ever in any doubt about whether an area of land is scheduled or where the boundaries of the protected area are, contact Historic Scotland for advice.

### Can I refuse access even if my land contains no scheduled monuments?

If you are in receipt of any grants through the Scotland Rural Development Programme, or earlier agri-environment schemes, check the terms of the schemes because they may contain a condition that does not permit metal



© David Connolly.

detecting on any ancient monument, scheduled or not. Otherwise, it is up to you to decide.

If you do decide to allow metal detecting on unscheduled sites, we believe that best practice is to ask to see evidence of membership of the National Council for Metal Detecting <[www.ncmd.co.uk](http://www.ncmd.co.uk)> or the Federation of Independent Detectorists <[fid.newbury.net](http://fid.newbury.net)>. Members of each follow a nationally agreed code of conduct for responsible metal detecting and encourage co-operation and responsive exchanges with other responsible heritage groups. Any responsible detectorist will leave if you make it clear that you do not wish them to detect on your land.

Some landowners, such as the MOD, have a blanket ban on detecting on their land.

### **But I want to encourage metal detectorists to work on my land**

This is entirely up to you, providing your land is not scheduled and you do not contravene the terms of any Scottish Government grants (see above).

In Scottish law, finders must report all finds of portable antiquities (an item of

any material – not just precious materials – and normally made or modified more than 100 years ago). Not reporting finds is an offence under the common law of Scotland and under Civic Government (Scotland) Act 1982. This is because the Crown has prior rights under the Treasure Trove system to all previously owned property that now has no owner. On the other hand, the finder invariably receives any Treasure Trove award that is the outcome of proper reporting. Detectorists normally offer to share with landowners any finds that the Crown disclaims or any reward they receive. So far as the objects themselves are concerned, the law of the land is clear: finders are not keepers, but neither do landowners have prior rights.



Careful recording of finds and their findspots is essential.

The *Code of Practice* for Treasure Trove in Scotland requires finders to report recovered objects to the Treasure Trove Unit or take them to a regional or local museum, or to a local authority archaeologist, *within one month of initial discovery*. The Treasure Trove Unit encourages monthly reports by post or email rather than immediately sending in the material. Delays in reporting a find will affect any *ex gratia* payment. The *Code* contains more information, including a standard reporting form: see <[www.treasuretrovescotland.co.uk](http://www.treasuretrovescotland.co.uk)>.

The term portable antiquity in Scotland covers ‘any ownerless item (*bona vacantia*) which is portable, has been humanly manufactured or modified, is of any size, type or monument, and has been found in Scotland. Normally the human manufacture or modification of the item will have occurred more than 100 years before its discovery’ (*Treasure Trove in Scotland: A Code of Practice*, 2008)

## USING METAL DETECTORS IN SCOTLAND

I use my metal detector north and south of the Border.  
What are the key differences I should be aware of?

While many of the principles in the voluntary *Code of Practice for Responsible Metal Detecting in England and Wales* <[www.finds.org.uk/documents/CofP1.pdf](http://www.finds.org.uk/documents/CofP1.pdf)> equally apply to Scotland, our legislation and organisations are different:

- Treasure Trove applies in Scotland (see above), not the Treasure Act 1996
- Finds must be reported (to the Treasure Trove Unit) rather than voluntarily to the Finds Liaison Officer of the Portable Antiquities Scheme <[www.finds.org.uk](http://www.finds.org.uk)>, and within one month of discovery.
- Access legislation is different: see the Scottish Outdoor Access Code <[www.outdooraccess-scotland.com](http://www.outdooraccess-scotland.com)>
- Details of Scottish scheduled monuments, including their legal documentation, can be downloaded for free from PASTMAP <[www.pastmap.org.uk](http://www.pastmap.org.uk)>; see also <[www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk)>.



Courtesy National Museums Scotland.



## WHERE DO I GET MORE ADVICE?

### About scheduled monuments

Please e-mail your enquiries to [hs.inspectorate@scotland.gsi.gov.uk](mailto:hs.inspectorate@scotland.gsi.gov.uk) or write to us at our address below. It will help us to deal with your query efficiently if you can tell us what local authority a site is in and supply its national grid reference and/or its scheduled name and number.

Historic Scotland Inspectorate  
Longmore House, Salisbury Place,  
Edinburgh, EH9 1SH  
Tel 0131 668 8770

### About sites which are not scheduled, or if you do not know either way

Your Council Archaeologist or archaeology service can advise you further about non-scheduled archaeological sites – see <[www.algao.org.uk](http://www.algao.org.uk)> for members of the Association of Local Government Archaeological Officers in Scotland, or contact your local council.

### About the law on Treasure Trove and finds reporting

To report finds or for further information, please contact:

Treasure Trove Unit  
c/o National Museums of Scotland,  
Chambers Street, Edinburgh, EH1 1JF  
Tel 0131 247 4082/435  
[info@treasuretrovescotland.co.uk](mailto:info@treasuretrovescotland.co.uk)

Cover images: top left © The NCMD Scottish Region;  
bottom left © National Trust for Scotland/Jill Harden. All other images  
© Crown Copyright Historic Scotland unless otherwise stated.

ISBN: 978-1849170079



9 781849 170079

