

THE NCMD SCOTTISH REGION



Dear sirs

2nd July 2009

THE ANCIENT MONUMENTS AND LISTED BUILDINGS (AMENDMENT) (SCOTLAND) BILL. CONSULTATION AND DRAFT BILL

Section 4 of the above document discusses defences involving knowledge or belief to certain offences under the Ancient Monuments and Archaeological Areas Act 1979 and contains a proposal within para.2.8 that s42(7) of the 1979 Act should be removed.

The National Council for Metal Detecting (NCMD) considers that the defence statement in s42(7) of the 1979 Act should remain for the following reasons:-

1. There is no justification given in the document for the removal of this defence statement. References in the preceding text of section 4 to the removal of the 'defence of ignorance' relate to s2(8) and s28(1)(a) of the 1979 Act and have no relevance to s42(7).
2. Published lists of the locations of Scotland's Scheduled Monuments have been available for some time, but do not locate the sites to any greater accuracy than a six figure National Grid Reference accompanied by a brief description of the archaeological interest.
3. Greater locational detail can be obtained on the RCAHMS 'PASTMAP' website and with patience relevant site boundaries can be found. However where these do not follow defined natural or manmade features they can be difficult to locate and define on the ground especially in the context of an arable field.
4. This website is not always guaranteed to be up to date, and a time lag can occur before newly scheduled sites appear on the maps. A metal detectorist could therefore find himself inadvertently detecting on a newly scheduled area through no fault of his own despite having checked 'PASTMAP' in advance of doing so.
5. The public dissemination highlighting the availability of the 'PASTMAP' maps is limited, and it is in the NCMD experience that this has often occurred by word of mouth.
6. Not all metal detectorists are computer literate, have access to the internet or are knowledgeable enough to seek help assuming that they are aware of the 'PASTMAP' maps in the first instance. There is often a reliance on asking landowners when gaining permission to search if

they have any scheduled areas on their land which must be avoided. Some landowners have been known not to be aware of such designations or even the extent of them particularly with sites scheduled some decades ago.

7. To allow all metal detectorists (and to a lesser extent, landowners) to be fully aware of the location of Scheduled Monuments there would appear to be a need to publicise as widely as possible, in both hard and electronic formats, maps containing full details of their boundaries and extent at an appropriate scale.
8. The proposed deletion of s42(7) of the 1979 act is fundamentally flawed in removing a person's right to prove his/her innocence even if it can be demonstrated that all reasonable precautions were taken to find out if he/she was in a protected place.

I would be grateful if you could acknowledge receipt of these comments, and I look forward to hearing from you in due course.

Yours faithfully

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