

National Legislation for the protection of cultural heritage

1. National Regulations

Documents and Pictures Act (Regulation of Export) Act, 1945
National Cultural Institutions Act, 1997

2. National Cultural Protection

2.1 Framework of protection (nature and legal status of protected cultural goods)

Section 2 (1) of the Documents and Pictures (Regulation of Export) Act, 1945 provides that any document (other than a document wholly in print) which is over one hundred years old, any painting, any document declared by an order made by the Minister under subsection (2) of this section to be an article to which this Act applies.

Subsection (2) provides that the Minister may from time to time by order declare any document, which is in his/her opinion of national, historical, genealogical or literary interest, to be an article to which this Act applies and may revoke any such order.

Under Section 3 of the Documents and Pictures (Regulation of Export) Act, 1945 it shall not be lawful for any person to export any article to which this Act applies unless each person is the holder of an export licence authorising the export of the article and the licence is delivered at the time of export to the proper officer of customs and excise.

Section 4 (2) of the above Act states where an application is made to the Minister for an export licence to export an article to which this Act applied the Minister may request the applicant to afford the Minister such facilities as he/she may think necessary for the making within a reasonable time of photographic copies of the article, and in that case he/she shall not grant the export licence unless the request has been complied with.

Documents and Pictures (Regulation of Export) Act 1945
The National Cultural Institutions Act, 1997

2.2 Protection of cultural goods (Procedure, document for leaving the country, modalities to issue and use)

See 2.1 above

Application for a licence to export items provided for under the Documents and Pictures Act, 1945 is made to the relevant national cultural institution, i.e. National Library of Ireland, National Museum of Ireland, National Gallery of Ireland.

In respect of the export of archaeological items provided for under the National Cultural Institutions Act, 1997, the application and licence form are forwarded to the Department of

Arts, Sport and Tourism for processing. The licence form is signed by an Assistant Secretary of the Department and sealed with the official seal of the Minister for Arts, Sport and Tourism. All documentation is then returned to the National Museum of Ireland for issue to the applicant. Copies are retained on file in the Cultural Institutions Unit of the Department of Arts, Sport and Tourism.

2.3 Authority responsible for national protection of cultural objects

Department of Arts, Sport and Tourism
Cultural Institutions Unit
Frederick Buildings, South Frederick Street
Dublin 2.

Tel: 353 1 631 3800

Email: sylvialynam@dast.gov.ie

3. Protection of national treasure

3.1. Definition of national treasure

The Documents and Pictures (Regulation of Export) Act, 1945 regulates the export of documents and pictures with the object of preserving records of those which are of national, historical, genealogical or literary interest. Section 1 of the Act defines the word “document” to include any writing, drawing, map, chart, plan, photograph or film. See 2.1 above.

- (1) The Act applies to any document (other than a document wholly in print) which is over one hundred years old, any painting and any document declared by the Minister to be of national, historical, genealogical or literary interest.
- (2) The Minister may revoke any order declaring an article covered by this Act.

3.2. Nature of the protection (legal status, licence for exit or accompanying document, model)

See 2.1 and 2.2 above.

4. Controls established to assure the protection of cultural national heritage

4.1. Customs authority appointed for control of export (contact point)

Office of the Revenue Commissioners
Revenue Legislation Service
Customs Division
Government Offices
Nenagh
Co. Tipperary

Tel: 00 353 67 44238
Fax: 00 353 67 32381
Email: tariff@revenue.ie

4.2 Police authority appointed for the protection (contact point)

National Bureau of Criminal Investigation

*An Garda Síochána

Art and Antique Squad

Harcourt Street

Dublin 2.

Contact: Det. Sgt. George Kyne

Tel: 353 1 6663404

Email: dvsau@iol.ie

*The Irish Civic Guard (Police)

4.3. Nature and legal basis for the control

Documents and Pictures Act, 1945

National Cultural Institutions Act, 1997

4.4. Modalities of control (particular powers)

See 2.1 above

5. Penalties relating to cultural goods and national treasures

The National Cultural Institutions Act, 1997 provides that a person who contravenes section 49 (8) shall be guilty of an offence punishable relative to the object to which the offence applies.

6. Other national specific regulations

6.1 Existence of preemption right, condition of functioning

The National Cultural Institutions Act, 1997 Section 50 (2)(a) provides that in respect of any cultural object on the register, held in the care of an institution for an uninterrupted period of five years before the commencement of this section (commencement date 24 July 1997) the Minister may grant or refuse to grant a licence at his or her discretion.

The above conditions apply in the case of a cultural object in the care of an institution after the commencement of this section and remains in such care for an uninterrupted period of ten years - Section 50 (2)(b).

If not in the care of an institution, a licence must be granted but the article may not be exported within a period of one year to enable the State to attempt a purchase - Section 50 (2)(c).

The same provisions apply in respect of archaeological objects.

6.2 National taxation, particulars

The Taxes Consolidation Act, 1997 Section 1003 provides that persons who donate heritage items can credit the value of those items against their liabilities for certain taxes. The taxes covered by the relief are Income Tax, Corporation Tax, Capital Gains Tax, Gift Tax and Inheritance Tax. In order to obtain the tax credit, the heritage item(s) must be donated for no consideration - other than the tax credit itself.

- For the purposes of the relief, heritage item means any kind of cultural item including: any archaeological item, archive, book, estate record, manuscript and painting, and
- any collection of cultural items and any collection of same in their setting which are considered appropriate for donation to the national collections.

Heritage items may only be donated to an Approved Body as provided for under the legislation. The Approved Bodies are:

- National Archives
- National Gallery of Ireland
- National Museum of Ireland
- National Library of Ireland
- Irish Museum of Modern Art

The tests applied in order to determine whether a heritage item or collection of heritage items is appropriate for donation to the Approved Bodies are:

- (1) the heritage item(s) must be an outstanding example of the type of item involved, pre-eminent in its class, whose export from the State would constitute a diminution of Ireland's accumulated cultural heritage or whose import into the State would constitute a significant enhancement of the accumulated cultural heritage of Ireland and must be suitable for acquisition by the Approved Bodies.
- (2) the open market value of the heritage item or collection of heritage items must be at least €150,000 and in the case of a collection, at least one item in the collection must have a minimum value of €50,000. The aggregate open market value of all heritage items donated in a calendar year must not exceed €6m.

6.3 Any other particulars

It should be noted that not all sections of the National Cultural Institutions Act, 1997 have been enabled. The repeal of the Documents and Pictures (Regulation of Export) Act, 1945, under section 6 (1), has yet to be enabled.

Certain sub sections of Section 49 lists restrictions on the export of articles to which the Act applies but these sections have yet to be enabled by statute. The necessary examinations and considerations are underway to facilitate the earliest possible implementation of the relevant enabling orders.

7. Sites (Internet or other) to access the previous information

www.gov.ie

www.dast.gov.ie

www.revenue.ie

Community legislation for the protection of cultural heritage

1. Council Directive 93/7/EEC of 15 March 1993
2. Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 which amends the Annex to Directive 93/7/EEC of 15 March 1993
3. Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State

1.1. Text of transposition, references

S.I. No. 182/1994 for the purpose of giving effect to Council Directive 93/7/EEC of 15 March 1993

S.I. No. 24/1998 for the purpose of giving effect to Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 which amends the Annex to Directive 93/7/EEC of 15 March 1993.

S.I. No. 498 of 2002 implements Council Directive 2001/38/EC of the European Parliament and of the Council dated the 5 June 2001, amending Council Directive 93/7/EEC of the 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State.

1.2. Central authority appointed in connection with the return of cultural goods

Department of Arts, Sport and Tourism
Cultural Institutions Unit
Frederick Buildings, South Frederick Street
Dublin 2.

Tel 353 1 6313800

Email sylvialynam@dast.gov.ie

2. Regulation 3911/92 of 9 December 1992 on the export of cultural goods

2.1. Competent authority for issuing the export licences of cultural goods

Department of Arts, Sport and Tourism
Cultural Institutions Unit
Frederick Buildings, South Frederick Street
Dublin 2.

Tel 353 1 6313800
Email sylvialynam@dast.gov.ie

The Department of Arts, Sport and Tourism is the competent authority for the issuing of these licences/declarations relating to this matter and does so while procuring appropriate professional/technical advice from the relevant national cultural institution.

National Gallery of Ireland
Merrion Square West
Dublin 2.
Email ksmit@ngi.ie

National Library of Ireland
Kildare Street
Dublin 2.
Email info@nli.ie

National Museum of Ireland
Kildare Street
Dublin 2.
Email noconnor@museum.ie

2.2 Nature of the control

Parts 2 and 3 of the EU Declaration Form must be presented to Customs and Excise at the point of export.

2.3. Penalties

See 5 above

It shall not be lawful for any person to export or attempt to export or sell for export any article to which Section 49 applies unless such person is the holder of a licence authorising the export of the article.

2.4. List of customs offices empowered to handle formalities for the export of cultural goods

All Irish Customs Offices at ports and airports.

2.5 Competent authority to implement controls (contact point)

Office of the Revenue Commissioners
Revenue Legislation Service
Customs Division
Government Offices
Nenagh
Co. Tipperary
Tel: 00 353 67 44238
Fax: 00 353 67 32381
Email: tariff@revenue.ie

2.6 Sites (Internet or others) to access previous information

www.revenue.ie

