

2015 No. 1926

CULTURAL OBJECTS

The Return of Cultural Objects (Amendment) Regulations 2015

Made - - - - 19th November 2015

Laid before Parliament 23rd November 2015

Coming into force - - 18th December 2015

The Secretary of State is a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the return of cultural objects unlawfully removed from the territory of a member State.

The Secretary of State, in exercise of the powers conferred by that section, makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Return of Cultural Objects (Amendment) Regulations 2015 and come into force on 18th December 2015.

Amendment of Return of Cultural Objects Regulations 1994

2.—(1) The Return of Cultural Objects Regulations 1994^(c) are amended as follows.

(2) For regulation 2(1) (interpretation) substitute—

“2.—(1) In these Regulations “the Directive” means Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012^(d) (Recast)^(e).”.

(3) In regulation 2(2) for “Article 1” substitute “Article 2”.

(4) Omit regulation 2(3).

(5) In regulation 3(5) for “two” substitute “six”.

(6) In regulation 6(6)(a) for “one year after the” substitute “three years after the competent central authority of the requesting”.

(7) In regulation 6(7)(a) for “Article 1(1)” substitute “Article 2(8)”.

(a) S.I. 1992/1711, to which there are amendments not relevant to these Regulations.

(b) 1972 c. 68.

(c) S.I. 1994/501, amended by S.I. 1997/1719 and 2001/3972.

(d) Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC, OJ No L 316, 14.11.2012, p. 1.

(e) OJ No L 159, 28.5.2014, p. 1, corrected in the corrigendum published in OJ No L 147, 12.6.2015, p. 24.

(8) In regulation 6(7)(b) for “ecclesiastical goods” substitute “objects belonging to inventories of ecclesiastical or other religious institutions”.

(9) In regulation 7(1) for “such compensation as the court deems fair according to the circumstances of the case” substitute “fair compensation”.

(10) In regulation 7(2) for “it is satisfied that the possessor” substitute “the possessor demonstrates that he”.

(11) After regulation 7(2) insert—

“(2A) In determining whether the possessor exercised due care and attention, the competent court shall consider all the circumstances of the acquisition, in particular—

- (a) the documentation on the object’s provenance;
- (b) the authorisations for removal required under the law of the requesting member State;
- (c) the character of the parties;
- (d) the price paid; and
- (e) whether the possessor consulted any accessible register of stolen cultural objects and any relevant information which he could reasonably have obtained, or took any other step which a reasonable person would have taken in the circumstances.”.

(12) Omit the Schedule.

Revocation

3. The following regulations are revoked—

- (a) The Return of Cultural Objects (Amendment) Regulations 1997(a);
- (b) The Return of Cultural Objects (Amendment) Regulations 2001(b).

Ed Vaizey

Minister of State

Department for Culture, Media and Sport

Department for Business, Innovation and Skills

19th November 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Return of Cultural Objects Regulations 1994 (S.I. 1994/501) (“the 1994 Regulations”) to implement Directive 2014/60/EU (“the Directive”) of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast) (OJ No L 159, 28.5.2014, p. 1, corrected in the corrigendum published in OJ No L 147, 12.6.2015, p. 24).

The Directive recasts Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a member State (OJ No L 74, 27.3.1993, p. 74) (“the 1993 Directive”) with amendments implemented in these Regulations. The 1993 Directive (as amended by Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 (OJ No L 60, 1.3.1997, p. 59) and Directive 2001/38/EC of the European Parliament and of the Council of 5 June 2001 (OJ No L 187, 10.7.2001, p. 43)) was implemented by the 1994 Regulations (as amended by the Return of Cultural Objects (Amendment) Regulations 1997 (S.I. 1997/1719) and the Return of Cultural Objects (Amendment) Regulations 2001 (2001/3972).

(a) S.I. 1997/1719.

(b) S.I. 2001/3972.

Regulations 2(2) and (3) make the 1994 Regulations refer to the Directive and the new numbering of its articles. Regulations 2(4) and (12) delete provisions no longer relevant given the new definition of “cultural property” in Article 2(1) of the Directive. Given that new definition, the earlier regulations amending the 1994 Regulations are redundant, and regulation 3 revokes those amending regulations.

Regulation 2(5) amends the time limit within which the Secretary of State may be required to take measures to preserve objects or to prevent action to evade the return procedure set out in the 1994 Regulations. Regulation 2(6) amends the limitation period for Member States to take proceedings under the 1994 Regulations. The effect of regulations 2(7) and (8) is to amend the types of goods over which a special limitation period of 75 years applies.

Regulations 2(9) to (11) amend the provision for compensation orders by the court.

An impact assessment has not been prepared for these Regulations as no impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum and a Transposition Note are available alongside these Regulations on www.legislation.gov.uk.

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