

**EXPLANATORY MEMORANDUM TO**  
**THE RETURN OF CULTURAL OBJECTS (AMENDMENT) REGULATIONS 2015**  
**2015 No. 1926**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument amends the Return of Cultural Objects Regulations 1994 (SI 1994/501, as amended) (“the 1994 Regulations”) in order to implement 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 (Recast) (“the Directive”). The Directive recasts Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State (“the 1993 Directive”).

2.2 The Directive requires each EU country to appoint a central authority (Secretary of State for Culture, Media and Sport) to deal with the return of cultural objects. They shall cooperate and promote consultation between competent authorities in order to look for, identify the possessor, notify of the discovery and check on a specified cultural object, or to act as an intermediary for its return.

2.3 New provisions within the Directive expand regulations to cover all cultural objects identified as "national treasures possessing artistic, historic or archaeological value" under national legislation or administrative procedures; extend the time limit for initiating return proceedings of cultural objects from one to three years and extend the time period after an application is made in which the competent authority has to take action to preserve objects or prevent actions to evade the return procedure from two months to six months; amend the types of goods over which a special limitation period of 75 years applies.

2.4 The new provisions also establish that the possessor of a cultural object should demonstrate that he exercised due care and attention when acquiring the object for the purpose of obtaining a compensation when the return is ordered; instruct the court as to what matters to take into account when determining whether the possessor demonstrated due care and attention; require the use of the Internal Market Information System (IMI) for conducting the administrative cooperation and exchange of information between central national authorities; and change the reporting obligation from every three years to every five years.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

3.1 None.

### *Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

## **4. Legislative Context**

- 4.1 This instrument makes amendments to the Return of Cultural Objects Regulations 1994 to meet the requirements of the Directive. The Directive provides for cooperation mechanisms and return proceedings against the possessor to secure the return of a cultural object unlawfully removed from the territory of one EU country to the territory of another. This Directive is a recast of the 1993 Directive.
- 4.2 As the Directive is recast, many of its requirements are already implemented by the 1994 Regulations. Amendments made to the 1993 Directive in 1996 and 2001 were implemented in amendments to the 1994 Regulations made in 1997 and 2001, but those amendments are no longer relevant given the changes made by the recast Directive and this instrument repeals them. This instrument amends the 1994 Regulations to the extent necessary to make the changes brought about by the Directive. They do not go beyond what is necessary to implement the relevant provisions of the Directive.
- 4.3 A report on the implementation of the 1993 Directive and an Explanatory Memorandum on its revision were submitted on 26th June 2013. These were cleared in by the European Scrutiny Committee on 4th September 2013 and in the Lords on 11th September 2013.

## **5. Extent and Territorial Application**

- 5.1 This instrument extends to all of the United Kingdom.
- 5.2 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 The first iteration of these regulations was laid in order to meet the requirements of the 1993 Directive which provides for cooperation mechanisms and return proceedings against the possessor to secure the return of a cultural object unlawfully removed from the territory of one EU country to the territory of another.
- 7.2 The UK has not made use of the 1993 Directive and return proceedings under it are rarely initiated. There have been 7 requests from member states to the UK between 1993 and 2011. The European Commission on review of the 1993 Directive concluded that it was not effective in recovering unlawfully removed national treasures and should be revised.
- 7.3 The recast Directive was adopted by the European Parliament and the Council of the European Union on 15 May 2014. The policy objective of this instrument is to ensure that the UK can better cooperate and respond to return proceedings to secure the return of a cultural object unlawfully removed from the territory of one EU country to

the UK through enacting the new provisions of the Directive and use of the IMI for the administration and exchange of information between Member States.

- 7.4 It is the Department's view that the Directive and the amendments this instrument makes to the 1994 Regulations will provide more effective and efficient means for the return of cultural objects where they have been unlawfully removed from another Member State and make it easier to make requests for the return of cultural objects under the Directive.

### ***Consolidation***

- 7.5 This instrument amends the 1994 Regulations in order to implement the Directive. This is the third time amendments have been made to these regulations. Amendments to the 1993 Directive in 1996 and 2001 were implemented in amendments to the 1994 Regulations made in 1997 and 2001, but those amendments are no longer relevant given the changes made by the recast Directive and this instrument is repealing them.
- 7.6 This instrument amends the 1994 Regulations to the extent necessary to make the changes brought about by the Directive. These are minor and therefore no consolidation is planned.

## **8. Consultation outcome**

- 8.1 No separate consultation exercise was conducted as the SI makes minor amends to the original 1994 Regulations directly transposed from the Directive. It does not make any changes of substance or place obligations upon anybody other than Member States. Furthermore the requirement to use the IMI system falls upon the Department and has no impact upon external stakeholders.

## **9. Guidance**

- 9.1 There is no non-statutory guidance in relation to this instrument

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses
- 11.3 No mitigating action is proposed as the legislation places no new burdens on small businesses and only makes limited and minor amends in order to transpose the Directive on the return of cultural objects unlawfully removed.

## **12. Monitoring & review**

- 12.1 The Corrigendum to Directive 2014/60/EU stipulates that Member States shall submit to the Commission a report on the application of the Directive by 18 December 2020 and every 5 years after that time. The Commission will assess the effectiveness of the Directive through such reports and suggest amendments if necessary.

### **13. Contact**

- 13.1 Carla Piper at the Department for Culture, Media and Sport Telephone: 020 7211 6294 or email: [carla.piper@culture.gov.uk](mailto:carla.piper@culture.gov.uk) can answer any queries regarding the instrument.