

EXPLANATORY MEMORANDUM TO
THE EXPORT OF OBJECTS OF CULTURAL INTEREST (CONTROL)
(AMENDMENT) ORDER 2009

2009 No. 2164

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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This Order amends the Export of Objects of Cultural Interest (Control) Order 2003 (S.I. 2003/2759) (“the 2003 Order”) to update the definition of “the Regulation” in article 1(2) of the 2003 Order by replacing the reference to Council Regulation (EEC) No. 3911/92 with a reference to the codified version, Council Regulation (EC) No. 116/2009 (“the codified Regulation”) (OJ L 39, 10.02.2009).

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

3.1 None.

4. **Legislative Context**

4.1 Council Regulation (EEC) No. 3911/92 requires the presentation of an export licence for the export to destinations outside the European Union of cultural goods falling within one of the categories set out in the Annex to the Regulation. The Regulation has been amended by three instruments; Council Regulation (EC) No 2469/96; Council Regulation (EC) No 974/2001 and Council Regulation (EC) No 806/2003. The codified Regulation consolidates Council Regulation (EEC) 3911/92 with the subsequent amending regulations. It revokes Council Regulation (EEC) 3911/92 and the Council Regulations which amended it subject to the provision in article 11 of the codified Regulation that references to Council Regulation (EEC) No. 3911/92 shall be construed as references to the codified Regulation. The codified Regulation is directly effective.

4.2 Subject to certain exceptions, the 2003 Order prohibits the export of all objects to any destination except under authority of a licence issued by the Secretary of State. Amongst other matters the 2003 Order provides that it is an offence to supply misleading information in an application or to fail to comply with licence conditions. The 2003 Order defines “the Regulation” by reference to Council Regulation (EEC) No. 3911/92.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The codified Regulation brings together the provisions of Council Regulation (EEC) No. 3911/92 and the amendments made by Council Regulation (EC) No 2469/96; Council Regulation (EC) No 974/2001 and Council Regulation (EC) No 806/200 into one document. It preserves the content of the measures being codified and only makes such formal changes as required by the codification process itself. The codified Regulation is part of the European Commission's programme to consolidate measures and their amendments to make EU legislation more readable and accessible as the text is contained in a single document. There are no changes of substance. An Explanatory Memorandum on the proposal for a directive of the European Parliament and of the Council on the return of cultural objects unlawfully removed from the territory of a member state was submitted to Parliament on 10 October 2006 in document 13130/06 (COM (2006)513). The 2003 Order defines "the Regulation" by reference to Council Regulation (EEC) No. 3911/92; this Order amends the definition to refer to the codified Regulation for the purpose of clarity and transparency.

8. Consultation outcome

8.1 No consultation has been undertaken because this Order merely replaces the reference to Council Regulation (EEC) No. 3911/92 with a reference to the codified Regulation and does not make any changes of substance.

9. Guidance

9.1 Guidance on export licensing procedures for the export of cultural objects is available on the website of the Museums, Libraries and Archives Council, which issues licences to export cultural goods on behalf of the Secretary of State, at http://www.mla.gov.uk/what/cultural/export/export_licensing.

10. Impact

10.1 The legislation applies to anyone wishing to export cultural goods, including those temporarily exporting items as loans to institutions abroad; however the consolidation of the European legislation into the codified Regulation makes no substantive changes and does not have any adverse effect. This Order amends the 2003 Order to update the definition of "the Regulation" to refer to the codified Regulation for transparency; no other changes are made.

10.2 A Regulatory Impact Assessment has not been prepared for this instrument as this is not required for proposals relating to a codification.

11. Regulating small business

11.1 The legislation applies to small businesses. It will not have any adverse effect because it only amends the 2003 Order to refer to the codified Regulation. There are no substantive changes.

12. Monitoring & review

12.1 The legislation is not kept under review at fixed periods.

13. Contact

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