

## Legislation

This factsheet refers to relevant legislation and international conventions relating to cultural property. The sections are divided according to the issue involved. Hyperlinks are given directly to the legislation as originally enacted where possible, but legislation pre-1988 is only available in hard copy. [The Office for Public Sector Information](#) can provide further information on acquiring copies of legislation. **Warning: these links do not show the legislation as it is currently in force, but as it was originally enacted. They do not give details of any subsequent amendments which may have been made to the legislation. This factsheet has been prepared for guidance only and those using it should seek legal and other advice specific to their individual circumstances.**

### 1. Illicit Activity

The [Dealing in Cultural Objects \(Offences\) Act 2003](#) is of primary importance. It is intended to make it an offence for anyone to deal dishonestly in tainted cultural property from anywhere in the world. The Department for Culture, Media and Sport has provided explanatory [guidance](#) on this piece of legislation. The offence set out in this Act complements the UK's obligations under the [1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#) ratified by the UK in 2002.

The illicit trade in Iraqi material following the conflicts in Iraq led to the [Iraq \(United Nations Sanctions\) Order 2003](#). Article 8 of that Order prohibits the illegal exportation or importation of any cultural property from Iraq since 6 August 1990.

[The Return of Cultural Objects Regulations 1994](#) has implemented the UK's obligations under Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State of the EU. It confers a right of action on a member state to recover cultural objects unlawfully removed from its territory.

The [Theft Act 1968](#) and the Treasure Act are relevant to the theft of cultural objects and the illicit trade in UK archaeological material. The Portable Antiquities Scheme has produced a summary of the [Treasure Act](#). In 2002 the Department for Culture, Media and Sport published [The Treasure Act \(1996\) Code of Practice \(Revised\)](#) for England and Wales. This provides guidance on what constitutes treasure.

### 2. Export and Import

There is also legislation governing the export of cultural objects. The main legislation is as follows:

- The Customs and Excise Management Act 1979, under which it is an offence to export or import goods in breach of a prohibition or restriction relating to them with intent to evade that prohibition or restriction, and goods which have been imported or exported in breach of such a prohibition or restriction are liable to forfeiture.

- [The Export of Objects of Cultural Interest \(Control\) Order 2003](#), made under [The Export Control Act 2002](#)

Also relevant is the Open General Export Licence (Objects of Cultural Interest) dated 1 May 2004, which gives general permission to export items which are covered by the provisions of the Licence.

### **3. Money Laundering**

Since the late 1980's a series of Acts have passed with the aim of discouraging crime by depriving the criminals of the proceeds of their thefts. This has been accompanied by legislation which seeks to prevent the use of the financial system for the purpose of money laundering. The regulations currently in force are the [Money Laundering Regulations 2003](#) which supersedes 1993 and 2001 regulations. The 2003 regulations implement amendments to the [EU Directive 91/308/EEC from 10 June 1991](#) designed to combat money laundering across Europe.

### **4. Droit de Suite**

This is the term commonly used to describe regulations which govern the selling of an original work of art where the creator of that work of art is still living. [The Artist's Resale Right Regulations 2006](#) were brought into force in the UK on 14 February 2006. The regulations require a percentage of the sale price of a work of art to be paid to the artist as a royalty. Further background information on this is available from UNESCO's Inter-Governmental Copyright Committee and their paper on the [practicalities of implementation](#).

### **5. Prevention and protection**

[The 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict](#) and its two Protocols of 1954 and 1999 provides for a system of protection for cultural property in situations of armed conflict. UNESCO has produced a brief [guide](#) to the Convention and the Protocols and the International Committee of the Red Cross (ICRC) has produced a [Fact Sheet](#) and [Advice and Model Instruments of Ratification](#). Neither the Convention nor its Protocols have yet been implemented by the UK.

### **6. Human remains**

The law in relation to human remains has recently changed following the [Human Tissue Act 2004](#), the primary purpose of which is to regulate the removal, storage and use of human tissue for listed activities including research and public display. The Act requires that regulated activities are undertaken only with the prior consent of the individual from whom the tissue is taken. Existing holdings, imported remains and human remains that are older than 100 years fall within exemptions to the requirement for consent. In practical terms this means that the activities of public collections will fall largely outside the regime of the act.

Public collections should also give consideration to the [Human Rights Act 1998](#), which makes it unlawful for 'public authorities' to act in a way which is incompatible with a Convention right. May of the Convention rights have some relevance for the treatment of human remains – and claims for the repatriation of human remains. A discussion paper on the repatriation of human remains and the Human Rights Act is contained in Appendix 3 of the [Report of the Working Group on Human Remains](#).

Once buried in England, Wales or Northern Ireland, a human body is protected in law. The Burial Act 1857 makes it a criminal offence to disinter a body without lawful authority. Development of

burial grounds and the disturbance of buried remains are subject to a range of legislative controls. Where ground under the jurisdiction of the Church of England is involved, the permission of the Church must be obtained. Detailed guidance on dealing with human remains from Church of England owned site can be found in [Guidance for Best Practice for the Treatment of Human Remains Excavated from Christian Burial Grounds in England](#), published in 2005 by the Church of England and English Heritage.

### **7. Other International Legislation**

UNESCO operates a [database of cultural heritage legislation](#) around the world. The database is dependent on Members States submitting information and is in some places rather patchy. A few countries have supplied their legislation in English: Belarus; Bosnia & Herzegovina; Canada; Greece; Ireland; Italy; Lithuania; Montenegro; Slovak Republic; Sweden; Australia; India; Philippines; Republic of Korea; and the United Kingdom. However these should not be relied on. They are not always comprehensive, and may not reflect the current state of the law in the countries concerned.