

## Act of 1 February 1984 (Bulletin of Acts and Decrees 49) establishing the Cultural Heritage Preservation Act<sup>1</sup>

We Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau etc., etc., etc.

Greetings to all who shall see or hear these presents! Be it known that:

Whereas we have considered it desirable to promote the preservation of the Dutch cultural heritage by laying down provisions designed to prevent objects with a special cultural-historical or scientific significance from being lost to the Dutch cultural heritage;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

### Chapter I General Provisions

#### Section 1

The following definitions shall apply for the purposes of this Act and the provisions pursuant thereto:

- protected cultural heritage: a protected object, moveable property as referred to in section 14a or a cultural object as referred to in section 14b;
- a protected object: moveable property of cultural-historical or scientific value which should be preserved independently or as part of a collection and, to this end, has been placed independently or as part of a collection on the list to be kept pursuant to this act;
- collection: moveable property which, from a cultural-historical or scientific viewpoint, belongs together;
- Our Minister: Our Minister of Education, Culture and Science;
- the Council: the Cultural Heritage Council as referred to in section 2 of the Cultural Heritage Council Act;
- the inspector: the official designated as such by Our Minister.

### Chapter II The designation of protected objects

#### Section 2

- Our Minister, having heard the Council, shall designate items of moveable property as protected objects by placing them, or the collection of which they form a part, on a list of protected objects. In urgent cases, Our Minister may place an object or collection on the list before obtaining the Council's advice; the advice of the Council on the listing shall be requested at the same time.
- Our Minister, having heard the owner and the Council, shall determine which objects belong to a listed collection. A description of the collection shall be appended to the list.
- The reason for each listing shall be recorded. In recording the reason and appending the description of the collection to the list pursuant to the second sentence of subsection 2, no reference may be made to the name of the owner of the collection or his relations or to the whereabouts of the collection without the permission of the owner.
- Having heard the Council, Our Minister may remove an object or collection from the list, alter descriptions and references, and add objects to or remove them from the description of a collection.
- Our Minister shall give prior notice in the Government Gazette of the submission of a request to the Council for advice concerning his intention to remove an object or collection from the list or to introduce any changes to the listing thereof.

#### Section 3

- If, in an urgent case, the Council has not yet been heard on the placement of an object or collection on the list, such shall be announced on publication of the decision in question.
- A copy of the list and the descriptions appended thereto, from which the names of the owners and the locations of the protected objects and collections have been omitted, shall be available for public inspection free of charge at the Ministry of Education, Culture and Science. Copies thereof shall be obtainable on payment of the costs incurred.
- Having heard the Council, we shall lay down provisions by order in council on the organisation of the list, the description of the

#### Section 4

- Any object which:
  - is the property of the person who made it or his heirs;
  - is the property of the person who brought it into the Netherlands or of the person who obtained it within five years of its being brought into the Netherlands, or of his heirs;may be placed on the list or included in the description of a collection only with the permission of the owner.
- The provisions of subsection 1 shall also apply to heirs who obtained an object by means other than inheritance.
- The provisions of subsection 1 shall apply only to those heirs who have inherited an object within thirty years, or, in the case of archive material, fifty years of the death of the legator.
- Returning an object to the Netherlands from a temporary location elsewhere shall not constitute bringing it into the Netherlands within the meaning of subsection 1.

#### Section 5

- On request or on his own initiative, Our Minister shall undertake not to place on the list any object, collection or part thereof which:
  - is in the custody of a person who takes up temporary residence in the Netherlands;
  - is lent by a non-resident to be exhibited in the Netherlands;
  - for other comparable reasons does not, in the opinion of Our Minister, having heard the Council, belong in the Netherlands.
- Our Minister shall withdraw this undertaking should the circumstances constituting the grounds on which it was entered into cease to exist. In such cases, Our Minister shall refrain from applying the provisions of this Act for one year as from the date on which the undertaking was withdrawn.

### Chapter III Protection

#### Section 6

Placement on the list shall constitute designation within the meaning of article 1 of the Convention concluded in Paris on 17 November 1970 on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property (Treaty Series 1972, no. 50).

#### Section 7

- No one may offer for auction, transfer ownership of, mortgage, rent out, lend or allocate to a non-resident a protected object on the settlement of an estate unless the inspector has been notified of the relevant draft agreement. The location of a protected object may not be changed without first notifying the inspector of the intention to do so.
- No one may perform any of the actions referred to in subsection 1 without the permission of the inspector or Our Minister for one month as from the date on which notification has been sent to the inspector. Our Minister may extend this period by a maximum of three months unless, on being informed that a protected object is to be offered for auction, he has stated no reservations or, an object having been offered for auction, he has applied the provisions of section 2, subsection 1, second sentence. This subsection shall not apply where notification relates to an intention to move the object within the Netherlands.
- Should an action as referred to in subsection 1 entail the removal of an object from the Netherlands, permission may only be given by Our Minister, having heard the Council. Upon the expiry of the period specified in the foregoing subsection, with or without an extension, and provided that no reservations have been stated, Our Minister shall, within eight days of receiving a request, confirm in writing that no reservations have been stated in respect of the action, provided it is performed within a year of notification thereof. The action and the date shall be specified in the confirmation.
- No one may perform an action referred to in subsection 1 if Our Minister has informed them, in writing, of his reservations in respect of the action within the period specified in subsection 2, with or without an extension. Reservations may be based only on the consideration that the object is in danger of being lost to the Dutch cultural heritage.
- Before stating reservations, Our Minister shall hear the Council.
- Moreover, should no reservations have been stated, an action

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2. Disputes arising from the provisions of this section shall be put before the District Court at The Hague.

### Section 8

When communicating the information referred to in section 7, subsection 4, Our Minister may announce that the prohibition shall not apply insofar as the action concerned is performed in accordance with the conditions specified in the communication. These conditions may only serve to prevent the protected object's being lost to the Dutch cultural heritage.

### Section 9

1. The owner of a protected object shall be obliged to inform the person to whom he transfers ownership of the object or to whom he grants rights relating thereto of its placement on the list.
2. Any person who has custody of a protected object shall be obliged to show it, on request, to the inspector and to inform him without delay of its loss or destruction.

### Section 10

1. A communication from Our Minister that reservations have been stated shall for eight months constitute a bid by the State to purchase the protected object in accordance with the provisions of sections 11 and 12, insofar as the reservations concern:

- a. transfer of ownership of the object, or its allocation to a non-resident, or
- c. its removal to the owner's permanent place of residence outside the Netherlands.

2. The stating of reservations shall not constitute a bid to purchase the object if the relevant communication contains an announcement as referred to in section 8.

### Section 11

Should reservations have been stated in respect of the sale of the object, transfer to the State may be effected only for the same purchase price and under the same conditions of sale as specified in the draft purchase agreement, provided the Council has put forward a unanimous proposal to this effect in its recommendation made pursuant to in section 7, subsection 5.

### Section 12

1. Should the provisions of section 11 not apply, Our Minister shall enter into negotiations with the owner on the purchase price and the other conditions of sale immediately after notification has been given that reservations as referred to in section 7, subsection 4 have been stated.
2. Should the negotiations fail to lead to agreement, the price shall be determined, on application of either party, by the District Court at The Hague, unless the owner announces that he will not perform the action referred to in section 7 subsection 1 or Our Minister withdraws the reservations he stated in respect thereof.
3. Before reaching a decision, the court shall gain the advice of experts. The registrar of the court shall forward a copy of the experts' recommendation to the plaintiff and the other party, who may submit their views on the recommendation to the registrar within a period to be specified by the court.
4. Appeal against rulings given pursuant to this section may only be lodged in cassation.

### Section 13

1. Within one month of the purchase price being finalised pursuant to sections 11 and 12, Our Minister may inform the owner that he is to withdraw his reservations, and the owner may announce that he will not perform the action of which he had given notification.
2. Should the provisions of the foregoing subsection not be put into effect, the established purchase price shall be deemed to have been agreed by both parties.

### Section 14

1. Insofar as reservations stated in accordance with section 7 which have not led to purchase by the State or application of the provisions of section 11 have rendered useless certain expenses incurred by one of the parties, the State shall reimburse such costs. The State shall not reimburse costs which, in view of the probability

## Chapter IIIA

## Protection of public and church collections

### Section 14a

1. No one may export from the Netherlands moveable property which forms an integral part of a public collection, as listed in the inventory of a museum, an archive or permanent collection of a library, and of which the State or other public body is owner, without the written permission of the owner. Should the owner fail to issue a statement on the matter, this permission may be substituted, at the request of the interested party, by a licence issued by Our Minister.

2. The prohibition referred to in subsection 1 shall also apply to moveable property that forms part of:

- a. the inventory of moveable property of cultural-historical or scientific value of which a church community, an independent part thereof, or other religious community is owner;
- b. a public collection listed as part of the inventory of a museum, an archive or permanent collection of a library, whose owner is a legal person in private law which is largely funded by the State or other public body and which has been designated by Our Minister as falling within the scope of this prohibition;
- c. the inventory of moveable property of cultural-historical or scientific value which is kept by the Netherlands Office for Fine Arts;
- d. Section 9, subsection 2 shall apply mutatis mutandis.

## Chapter IIIB

## Export of cultural objects outside the territory of a member state of the European Union or of another State that is party to the Agreement on the European Economic Area

### Section 14b

1. Cultural objects belonging to a category listed in the annexe to Council Regulation (EEC) No. 3911/92 of 9 December 1992 may not be exported outside the territory of a member state of the European Union or of another state which is party to the Agreement on the European Economic Area without a licence issued by Our Minister or other competent authority as referred to in article 2, paragraph 2 of said Council Regulation.

2. Our Minister may specify that the prohibition referred to in subsection 1 does not apply to archaeological objects more than one hundred years old which are the products of excavations and finds on land or under water or archaeological sites, if these objects are of limited archaeological or scientific value and provided they are not the direct product of excavations, finds or archaeological sites on the territory of a member state of the European Union or another state that is party to the Agreement on the European Economic Area, and have been brought onto the market legally.

## Chapter IV

## Supervision and penalties

### Section 15

1. The inspector and officials designated therefor by Our Minister shall be responsible for monitoring compliance with the provisions laid down by or pursuant to this Act.
2. Customs and excise officers shall be responsible for monitoring compliance with the provisions of sections 14a and 14b.
3. Notification of designation as referred to in subsection 1 shall be given in the Government Gazette.

### Section 16

1. The following officials shall be responsible for investigating offences specified as such under the provisions of this Act:
  - a. the officials designated under article 141 of the Code of Criminal Procedure;
  - b. the inspector and the officials referred to in section 15, subsection 1, insofar as they are designated as such by Our Minister of Justice;
  - c. customs and excise officers.
2. At the request of a member state of the European Union, or of another state that is party to the Agreement on the European

responsible for tracing moveable property specified in the request, which, pursuant to national legislation, constitutes a cultural object within the meaning of article 1, paragraph 1 of Council Directive no. 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State, provided removal of the property from the territory of the state in question may be deemed unlawful within the meaning of said Directive.

3. Notification of designation as referred to in subsection 1b shall be given in the Government Gazette.

#### Section 17

1. The inspector and the officials referred to in section 15, subsection 1 and section 16 shall have access to any place which might reasonably need to be entered for the purpose of establishing the whereabouts of a protected cultural object. If necessary, they shall obtain entry with the assistance of the police.

#### Section 18

1. The inspector and the officials referred to in section 15, subsection 1 shall be authorised to demand from the owner or holder of a protected cultural object any information which they might reasonably deem necessary for the performance of the duties for which they are responsible under the provisions of this Act.

2. They shall be authorised to order the occupant of a dwelling to show them the protected cultural object which is located therein.

3. They shall be authorised to examine and copy any documents relating to a protected cultural object, insofar as this might reasonably be deemed necessary for the performance of the duties for which they are responsible under the provisions of this Act.

#### Section 19

Parts 4 and 5 of Chapter V of the Customs and Excise Act shall apply mutatis mutandis to the officers referred to in section 15, subsection 2.

#### Chapter V

#### Final Provisions

#### Section 20

(lapsed)

#### Section 21

Having heard the Council, further rules may be laid down by order in council to implement this Act,

#### Section 22

1. This Act may be cited as the Cultural Heritage Preservation Act.

2. It shall enter into force on a date to be determined by Us, which date may differ for each of the sections<sup>2</sup>

3. Articles 429a to 29r of the Code of Civil Procedure shall enter to force for the matters referred to in section 12 on the same date as section 12 enters into force.

We order and command that this Act shall be published in the Bulletin of Acts and Decrees (Staatsblad) and that all ministries, authorities, bodies and officials whom it concerns shall diligently implement it.

Done at The Hague on 1 February 1984

Beatrix

L.C. Brinkman

Minister for Welfare, Health and Cultural Affairs

Published on the eighth of March 1984

F. Korthals Altes

Minister of Justice