

#### Disclaimer

This is the English translation of the *Wet tot behoud van Cultuurbezit (1984/2002/2009)* [Cultural Heritage Preservation Act (1984/2002/2009)]. Please note that this English translation is not legally binding. It is the Dutch-language text of the Act that is legally binding. The most recent version of the text of the Act can be found, in Dutch, on the website: <http://www.wetten.nl>.

Further information can be obtained from the Ministry of Education, Culture and Science ([www.minocw.nl](http://www.minocw.nl); e-mail address: [ocwinfo@postbus51.nl](mailto:ocwinfo@postbus51.nl)) or the Cultural Heritage Inspectorate ([www.erfgoedinspectie.nl](http://www.erfgoedinspectie.nl); e-mail address: [info@erfgoedinspectie.nl](mailto:info@erfgoedinspectie.nl)).

### **Cultural Heritage Preservation Act (1984/2002/2009)**

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#### Amendments:

This Act has been amended by the Acts of 23 December 1988, Bulletin of Acts and Decrees ('Stb.') 638, 3 July 1989, Stb. 348, 25 October 1989, Stb. 492 in conjunction with that of 4 December 1991, Stb. 609, 4 June 1992, Stb. 422, 22 June 1994, Stb. 573, 9 March 1995, Stb. 145, 10 July 1995, Stb. 355, 26 October 1995, Stb. 539, 2 November 1995, Stb. 554, 14 November 1996, Stb. 574, 4 December 1997, Stb. 580, 28 January 1999, Stb. 30 in conjunction with that of 7 March 2002, Stb. 145, 6 December 2001, Stb. 581 and 584, 7 March 2002, Stb. 145, 17 December 2003, Stb. 17, 13 May 2004, Stb. 215, 3 April 2008, Stb. 112 and 12 June 2009, Stb. 255.

Stb. 49

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Act of 1 February 1984 adopting the Cultural Heritage Preservation Act

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 scholarly 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**

1. The following definitions shall apply for the purposes of this Act and the provisions pursuant thereto:
  - a. protected object: moveable property that is designated as a protected object pursuant to section 2 or that is a protected object pursuant to section 3, subsection 3 or section 3b, subsection 3;
  - b. collection: moveable property which, from a cultural-historical or scholarly viewpoint, belongs together;
  - c. protected collection: a collection that is designated as a protected collection pursuant to section 3;
  - d. the Council: the Council for Culture as referred to in section 2a of the Cultural Policy Special-Purpose Funding Act;
  - e. Our Minister: Our Minister of Education, Culture and Science;
  - f. the inspector: the official designated as such by order of Our Minister.
2. Notification of an order as referred to in subsection 1 (f) shall be provided by means of publication in the Government Gazette.

## **Chapter II The designation of protected objects**

### **Section 2**

1. Our Minister, having heard the Council, may designate as protected objects items of moveable property of special cultural-historical or scholarly significance that, being irreplaceable and indispensable, should be preserved as part of the Dutch cultural heritage.
2. An item of moveable property shall be deemed irreplaceable as referred to in subsection 1 if there are no other similar objects or objects of a similar type, or virtually no such objects, to be found in good condition in the Netherlands.
3. An item of moveable property shall be deemed indispensable as referred to in subsection 1 if it fulfils one or more of the following functions:
  - a. a symbolic function, meaning that the item serves as a clear reminder of persons or events which are of evident importance to the history of the Netherlands;
  - b. a link function, meaning that the item serves as an essential element in a development which is of evident importance to the practice of scholarship in the Netherlands, including the study of the history of culture;
  - c. a benchmark function, meaning that the item makes an essential contribution to research into or knowledge of other objects of artistic or scholarly importance.

### Section 3

1. Our Minister, having heard the owner and the Council, may designate as a protected collection a collection of special cultural-historical or scholarly significance that, being irreplaceable and indispensable, either as such or by virtue of one or more of the items of moveable property that form essential parts thereof, should be preserved as part of the Dutch cultural heritage. Designations shall be accompanied by a general description of the protected collection and a catalogue of the items of moveable property belonging thereto.
2. Section 2, subsections 2 and 3, shall apply *mutatis mutandis*.
3. Every item of moveable property that is included in a catalogue as referred to in subsection 1 shall be deemed to be a protected object.

### Section 3a

1. In urgent cases, Our Minister may designate items of moveable property as referred to in section 2, subsection 1, or a collection as referred to in section 3, subsection 1, as protected objects or protected collections respectively before obtaining the Council's advisory opinion. In such cases, the Council's advisory opinion shall be sought at the same time as the object or collection is designated.
2. When announcing designations as referred to in subsection 1, Our Minister shall give notice that the Council has not yet been heard.

### Section 3b

1. If Our Minister designates a collection as a protected collection pursuant to section 3a he may, notwithstanding section 3, subsection 1, second sentence, confine himself to a general description of the collection.
2. As soon as possible after a designation as referred to in subsection 1, Our Minister shall, having heard the owner and the Council, draw up a catalogue of the items of moveable property belonging to the protected collection.
3. Until a catalogue of the protected collection has been drawn up, any item of moveable property that can reasonably be deemed to be covered by the general description of this protected collection shall be deemed to be a protected object.

### Section 3c

1. Our Minister shall keep a list of protected objects and protected collections.
2. The list shall at a minimum give:
  - a. with regard to protected objects: a description of the protected object and the reason for its designation as such;
  - b. with regard to protected collections: a general description of the protected collection, a catalogue of the protected objects belonging to the protected collection, and the reason for its designation as such.
3. Only with the owner's permission may the list include an indication of his name or the names of his relatives or the location of the protected object or the protected collection.

4. A copy of the list, 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.

#### Section 3d

1. Our Minister may, either *ex proprio motu* or at the owner's request, amend the description of a protected object or the general description or catalogue of a protected collection, in so far as the amendment is a correction of a matter of fact.
2. Our Minister may, having heard the Council, cancel designations as protected objects or protected collections, amend reasons for designation, and add items of moveable property to, or remove them from, the catalogue of a protected collection.

#### Section 4

1. An item of moveable property may only be designated as a protected object or included in the catalogue of a protected collection with the permission of the owner if the item in question:
  - a. is the property of the person who made it or his heir;
  - b. is the property of the person who brought it into the Netherlands or the person who obtained it within five years of its being brought into the Netherlands, or of his heir.
2. The provisions of subsection 1 shall also apply to heirs who obtained an item of moveable property by means other than inheritance.
3. The provisions of subsection 1 shall apply only to heirs within thirty years, or, in the case of archive material, fifty years of the death of the legator.
4. If the property referred to in subsection 1 (b) belongs to or is acquired by a legal person, subsection 1 shall only apply for thirty years or, in the case of archive material, fifty years after the legal person had the object brought into the Netherlands or obtained the object within five years after it was brought into the Netherlands.
5. Returning an item of moveable property to the Netherlands from a temporary location elsewhere shall not constitute bringing it into the Netherlands within the meaning of subsection 1.

#### Section 5

1. Our Minister shall, either on request or on his own initiative, undertake not to designate as a protected object or protected collection an item of moveable property as referred to in section 2, subsection 1, a collection or a part thereof which:
  - a. is in the custody of a person who takes up temporary residence in the Netherlands;
  - b. is lent by a non-resident to be exhibited in the Netherlands;
  - c. for other comparable reasons does not, in the opinion of Our Minister, having heard the Council, belong in the Netherlands.
2. Our Minister shall withdraw this undertaking should the circumstances constituting the grounds on which it was given 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

(lapsed per 1-7-2009)

#### Section 7

1. No one may offer for auction, transfer ownership of, mortgage, rent out, lend or allocate to a non-resident a protected object in the settlement of an estate without first notifying the inspector in writing of the intention to do so. The location of a protected object may not be changed without first notifying the inspector in writing of the intention to do so.
2. Performance of any of the actions referred to in subsection 1 without the permission of the inspector or Our Minister is prohibited for four weeks as from the date on which notification has been sent to the inspector. Our Minister may extend this period by a maximum of eight weeks 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 3a, subsection 1. This subsection shall not apply where notification relates solely to an intention to move the object within the Netherlands.
3. Should an action as referred to in subsection 1 entail the removal of an object from the Netherlands, permission may only be granted by Our Minister. 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 there are no reservations 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.
4. 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 protected object is in danger of being lost to the Dutch cultural heritage.
5. If no reservations have been stated, an action as referred to in subsection 1 in respect of the same protected object shall again be prohibited when one year has elapsed since the date of the notification.
6. If reservations have been stated and these are withdrawn by Our Minister, an action as referred to in subsection 1 in respect of the same protected object shall again be prohibited when one year has elapsed since the date on which the owner was informed of the withdrawal.

## Section 8

When communicating the information referred to in section 7, subsection 4, Our Minister may announce that the prohibition shall not apply in so far 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 from 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 that it has been designated as a protected object.
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 if it is lost or destroyed.

## Section 10

1. A communication from Our Minister that reservations have been stated shall for three months constitute a bid by the State to purchase the protected object in accordance with the provisions of section 12, in so far as the reservations concern:
  - a. transfer of ownership of the object, or
  - b. its allocation to a non-resident, or
  - c. its removal to the owner's permanent place of residence outside the Netherlands.
2. Our Minister and the owner of the protected object may extend the period referred to in subsection 1 by mutual agreement.
3. The period referred to in subsection 1 shall be suspended for as long as a bid by the State to purchase a protected object:
  - a. is the subject of legal proceedings at the District Court at The Hague as referred to in section 12, subsection 2, or
  - b. is the subject of an arbitration agreement between the State and the owner.
4. 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

(lapsed per 1-6-2002)

## Section 12

1. 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 consult 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 in cassation is the only available remedy against rulings given pursuant to this section.

#### Section 13

1. Within one month of a final and conclusive determination of the purchase price pursuant to section 12, Our Minister may inform the owner that he withdraws 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 subsection 1 not be put into effect, the established purchase price shall be deemed to have been agreed by both parties.

#### Section 14

1. In so far as reservations stated in accordance with section 7 which have not led to purchase by the State have rendered useless certain expenses incurred by one of the parties, the State shall reimburse such expenses. The State shall not reimburse expenses which, in view of the probability that reservations would be stated, should, in all reasonableness, not have been incurred. Applications shall be submitted to Our Minister.
2. Disputes arising from the provisions of this section shall be put before the District Court at The Hague.

### **Chapter IIIA Protection of public and church collections**

#### Section 14a

1. No one may take out of the Netherlands, without the written permission of the owner, 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. Should the owner fail to issue a statement on the matter, a licence issued by Our Minister may be substituted, at the request of the interested party, for this permission.
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 scholarly value of which a church association, an independent part thereof, or another religious association 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 grants awarded by the State or another 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 scholarly value which is kept by Our Minister;

3. The prohibition referred to subsection 1 also applies to:
  - a. protected monuments and historic buildings and parts thereof, within the meaning of section 1 (d) of the Monuments and Historic Buildings Act;
  - b. illicitly excavated objects;
  - c. archival materials and elements thereof within the meaning of section 1 (c) (1o),(2o) and (3o) of the Public Records Act 1995, provided that they are more than fifty years old.
4. Section 9, subsection 2 shall apply *mutatis mutandis*.

### **Chapter IIIB Export of cultural objects outside the territory of the member states of the European Union or of the other states that are 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 the member states of the European Union 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 on archaeological sites, if these objects are of limited archaeological or scholarly 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 and have been brought onto the market legally.

### **Chapter IV Enforcement**

#### Section 15

1. The inspector and officials designated therefor by order of Our Minister shall be responsible for monitoring compliance with the provisions laid down by or pursuant to this Act.
2. Notification of an order as referred to in subsection 1 shall be given in the Government Gazette.

#### Section 16

1. Without prejudice to article of the 141 Code of Criminal Procedure, the following officials shall be responsible for investigating offences specified as such under the provisions of this Act:
  - a. the inspector and the officials referred to in section 15, subsection 1, in so far as they are designated as such by order of Our Minister of Justice;
  - b. the customs officials of the Tax and Customs Administration.These officials shall also be responsible for investigating offences specified as such in articles 179 to 182 and article 184 of the Criminal Code, in so far as these offences relate to instructions they have issued, an action they have instituted or an act they have performed themselves.
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 Economic Area, the officials referred to in subsection 1 shall

be responsible for tracing moveable property specified in the request, which, pursuant to the national legislation of that state, 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 (OJ L 74), provided the property was unlawfully removed, within the meaning of said Directive, from the territory of the state in question.

3. For the purposes of this section, any amendment to Directive no. 93/7/EEC shall apply as of the date on which the amending directive is to be implemented, unless a different date is specified by ministerial order published in the Government Gazette.
4. Notification of an order as referred to in subsection 1a shall be given in the Government Gazette.

#### Section 17

The inspector and the officials referred to in section 15, subsection 1 and section 16 shall be authorised, taking with them the necessary equipment, to enter a dwelling without the occupant's permission.

#### Section 18

The inspector and the officials referred to in section 15, subsection 1 shall be authorised to demand that the occupant of a dwelling show them a protected object, moveable property as referred to in section 14a, or a cultural object as referred to in section 14b, that is in the said dwelling.

#### Section 19

(lapsed per 1 -8-2008)

### **Chapter V Final Provisions**

#### Section 20

(lapsed per 1-1- 1994)

#### Section 21

Further rules may be laid down by order in council to implement this Act.

#### Section 22

This Act shall be cited as the Cultural Heritage Preservation Act.

We order and command that this Act shall be published in the Stb. (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

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