



THE UNIVERSITY
of ADELAIDE

Legal Compliance Education and Awareness



CRICOS PROVIDER 00123M

Protection for Movable Cultural Heritage Act 1986

(Commonwealth)

adelaide.edu.au

seek LIGHT

What is “movable cultural heritage”?

- Objects considered to form an important part of a nation's identity due to their:
 - age
 - value
 - rarity
 - representation in public collections
 - national significance
- Objects which meet the criteria established under the National Cultural Heritage Control List
- Such objects are often known as **cultural property** & can be:
 - artistic
 - scientific
 - technological
 - historical
 - literary
 - natural in origin

Classification of Australian Protected Objects

The [National Cultural Heritage Control List](#) separates Australian protected objects into classes:

- **Class A:** objects of such significance to Australia that they may not be exported (i.e. sent to another country to be sold):
 - Ned Kelly's armour
 - Victoria Crosses awarded to Australian recipients
 - Indigenous & Torres Strait Islander human remains & secret sacred objects including:
 - secret ritual objects
 - Bark and log coffins used as traditional burial objects
 - Human remains
 - Rock art
 - Dendroglyphs (carved trees)
- **Class B:** objects which may be exported but require export permits based on their age, value or significance to Australia
 - See next slide: Examples of Cultural Property

Examples of Cultural Property

- Indigenous art & artefacts (eg. rock art, sacred objects)
- Works of fine & decorative art (eg. paintings, jewellery, musical instruments)
 - [value & age thresholds](#) apply
- Scientific & archaeological artefacts (eg. tools, weapons, machinery)
- Fossils, meteorites & minerals
- Agricultural & industrial heritage
- Historical documents (eg. letters, ledgers, recordings, maps)
- [Sporting trophies & memorabilia](#)
- Furniture
- Books, stamps, coins & medals

What does the PFMCH Act do?

- Prohibits **export** of identified cultural property because their loss would significantly diminish Australia's cultural heritage
- Implements a system of export permits for certain cultural property defined as 'Australian protected objects' (based on their age, value or significance to Australia)
- Seeks to protect & minimise loss of a Australia's cultural heritage, due to increasing trade & exchange of cultural property between nations
- Protects important foreign cultural property by allowing foreign governments to request the return of cultural property which has been illegally taken from their country of origin & imported into Australia
- Establishes a National Cultural Heritage Committee that advises the Minister on the operation of the Act & the objects that should be included in, or removed from, the Control List
- NOTE: The Act regulates the **import & export** of Australian cultural objects – not simply the transport of them around Australia or overseas

How does the Act apply to the University?

- The University has a number of Victoria Cross medals in its possession, including that of Daisy Bates, an Irish Australian journalist, welfare worker & lifelong student of Australian Aboriginal culture & society
 - These items may not be exported
- There are likely to be items in the University's Special Collections & Faculties that may be considered Class B cultural property under the Act, such as:
 - rare books or manuscripts
 - scientific specimens or fossils
 - blood slides
 - Relics or artefacts
- If the University chose to sell a Class B item, it must be sold to a resident of Australia, or have a special export permit obtained in order to sell it to someone overseas

How does the Act apply to the University? (cont.)

University collections that may include class B Items include:

- Civil Engineering Collection
- Gilbert Jessop memorabilia
- Geography Collection
- Heritage Furniture
- Museum of Classical Archaeology
- Physics Museum
- Urrbrae House & Waite Scientific Collection
- War Memorial Collection

Movable Cultural Heritage Prohibited Exports Register

- The [Australian Movable Cultural Heritage Prohibited Exports Register](#) includes all objects which have been defined in the National Cultural Heritage Control List as Class A & objects classified as Class B, which have subsequently been denied an export permit
- The small number of export permits refused reflects the intent of the legislation that only objects of exceptional cultural importance, whose export would significantly diminish Australia's cultural heritage, should be prevented from leaving the country
- Not all objects are covered by the control list & some are deliberately excluded, for example
 - Most works of art less than 30 years old & Aboriginal and Torres Strait Islander art less than 20 years old do not require permission for export or import

Exporting of Cultural Property

- To export an Australian protected object you must apply in writing for a permit
- The application process involves three steps:
 1. The application is referred to expert examiners for assessment
 2. The assessments are reviewed by the National Cultural Heritage Committee, which make recommendations to the Minister as to whether or not an export permit should be granted
 3. The Minister makes the final decision as to whether an export permit will be granted & may impose conditions on a permit
- Certificates of exemption allow Class A & B Australian protected objects, which are currently overseas, to be imported into Australia & subsequently re-exported
- Overseas owners of Australian protected objects are encouraged to repatriate them to Australia for exhibition or sale

Enforcement of the Act

- An Australian protected object exported without, or contravening the conditions of a permit or certificate is considered an illegal export
- Foreign cultural property exported in contravention to the law of its country of origin and imported into Australia is considered an illegal import
- The Australian Customs & Border Protection Service has an important role in detecting illegal exports & imports of cultural property
- Permit requirements are enforced through a number of measures including:
 - **seizure of objects**
 - **fines of up to \$200,000 for a body corporate and \$100 000 for a person**
 - **imprisonment for up to 5 years (for persons exporting or importing protected objects from or into Australia illegally)**

Enforcement of the Act (cont.)

- The Australian Federal Police (also considered to be **Inspectors** under the Act) work collaboratively with partner agencies to investigate & seize illegal exports & imports of cultural objects as required
- Inspectors may, with or in certain circumstances without a warrant:
 - enter upon the land or upon or into the premises, structure, vessel, aircraft or vehicle
 - search the land, premises, structure, vessel, aircraft or vehicle for Australian protected objects or foreign protected objects imported into Australia
 - seize any such objects & related material found there that they believe on reasonable grounds to be forfeited or connected with an offence under the Act
 - arrest any person suspected of committing, or having committed an offence under the Act
 - Seize any object that they believe on reasonable grounds to be forfeited

University obligations under the Act

- The University is prohibited from selling a Victoria Cross medal to someone overseas
- Any staff member who manages a Collection identified in the [Collections Management Policy](#), or a Collection that has subsequently been identified since the Policy was drafted, should consider the heritage value & significance of objects within the Collection & whether any items could be deemed a Class B object

For example:

- Any objects that relates to University of Adelaide Alumni & Nobel prize winners, Lord Florey, William Henry Bragg & Lawrence Bragg are likely to be Class B objects
- If the University chose to sell a Class B object, it must be sold to a resident of Australia, or have a special export permit obtained in order to sell it to an overseas resident
- If you are unsure as to whether the Act applies to your Collection, contact [Mirna Heruc](#), Art & Heritage Collections Manager on 8313 4031:- the objects may have value & significance beyond what you may think

Additional Resources

- [Mirna Heruc](#), Art & Heritage Collections Manager
 - 8313 4031
- [Protection of Movable Cultural Heritage Act 1986 \(Cth\)](#)
- [Protection of Movable Cultural Heritage Regulations 1987 \(Cth\)](#)
- [Collections Management Policy](#)
- [Department of Regional Australia, Local Government, Arts & Sport](#)
- For more information on Australian cultural property contact:
 - Cultural Property
 - [Department of Regional Australia, Local Government, Arts & Sport](#)
 - Office for the Arts,
 - 02 6210 2929
 - movable.heritage@environment.gov.au
 - www.arts.gov.au/movable



Disclaimer

The content of this material is intended only to provide a summary & general overview of the *Protection of Movable Cultural Heritage Act* as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact *Mirna Heruc* if you are unsure of your compliance obligations under the Act.