

Title: Export Licensing of Cultural Goods IA No: DCMS047 Lead department or agency: Department for Culture, Media & Sport Other departments or agencies:	Impact Assessment (IA)
	Date: 20/11/2014
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Other
Contact for enquiries: James Pender 020 7211 6491	
Summary: Intervention and Options	RPC opinion: Not applicable

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
		N/A	No	OUT
What is the problem under consideration? Why is government intervention necessary? i) The absence of a policy on how to deal with applications for temporary licences for the export of cultural goods risks inconsistency in practice and creates a loophole whereby applicants can use temporary licences to keep cultural goods outside the UK long-term or indefinitely, even where the cultural goods have been found to be national treasures. A clear written policy and guidance is needed to rectify this situation. ii) Existing UK provisions under the Open General Export Licence (Objects of Cultural Interest) (the OGEL, issued under SI 2003/2759) are inconsistent with the EU export licensing regime and place unnecessary administrative burden on exporters. We propose to amend the OGEL which is granted by the Secretary of State, to rectify this.				

What are the policy objectives and the intended effects?
(i) To prevent applicants circumventing the system by using temporary licences to keep objects found to be national treasures outside the UK long-term or indefinitely. Temporary licences should not be extended more than once. Extensions to temporary licences for objects found to be national treasures will normally be refused. (ii) To amend the OGEL to bring consistency with EU licensing and reduce administrative burdens. Exporters would no longer need to obtain individual licences for cultural goods brought into the UK temporarily, but not released into free circulation, or for spoliated goods which the Secretary of State has agreed should be returned. Obsolete references to practice no longer followed will be removed.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
Following consultation between 9 May and 4 August 2012, the following options are under consideration:
0. Do nothing: this could result in objects found to be national treasures remaining outside the UK long-term or indefinitely; and the OGEL would remain inconsistent with the EU export licensing regime.
1. Preferred: Amend the OGEL; and introduce a policy whereby (i) temporary export licences for cultural goods may not be extended more than once and must then be returned to the UK and (ii) temporary export licences for objects found to be national treasures will not be granted unless the object is being loaned for display to a public institution and will not normally be extended. This is consistent with the purpose and spirit of the export licensing system for cultural goods which is to provide an opportunity for the retention of national treasures in the UK.
(See the consultation document and accompanying consultation stage impact assessment for a discussion of additional options that were also considered at earlier stages: <https://www.gov.uk/government/consultations/export-licensing-consultation-review-of-the-open-general-export-licence-objects-of-cultural-interest-and-procedures-for-dealing-with-applications-for-temporary-export-licences-for-cultural-goods>)

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 11/2019					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:  Date: 8/12/14

Summary: Analysis & Evidence

Policy Option 1

The consultation stage impact assessment set out in detail analysis and evidence for all 5 options considered at that stage. **This impact assessment only sets out in detail the preferred option.**

Description: Preferred option: Amend the OGEL; and introduce a policy whereby (i) temporary export licences for cultural goods may not be extended more than once and must then be returned to the UK and (ii) temporary export licences for objects found to be national treasures will not be granted unless the object is being loaned for display to a public institution and will not normally be extended.

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate:
2012	2012	10			0.049

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low			
High			
Best Estimate			-0.031

Description and scale of key monetised costs by 'main affected groups'

As a result of the proposed temporary export licence policy, some exporters may be persuaded to apply for permanent rather than temporary licences in some cases. Export licences are free and the administrative requirements of applying for permanent licences are no greater than for temporary licences. A minority of applications may be referred to the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest (RCEWA), if applicants decide to apply for a permanent instead of temporary licence, which would increase the cost to exporters, Arts Council England (ACE) and expert advisers (overall estimated cost £4,000 per annum). All consultation respondents agreed with the estimated costs or did not comment on them.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low			
High			
Best Estimate			0.080

Description and scale of key monetised benefits by 'main affected groups'

The estimated savings that would result from a reduced administrative burden caused by amending the OGEL is £6,220 per annum for exporters and £4,290 per annum for ACE - a total of £10,510 p.a.

Other key non-monetised benefits by 'main affected groups'

The proposed temporary licence policy would avoid the loss of national treasures abroad and could lead to national treasures being purchased by UK institutions, instead of being loaned abroad, leading to a positive impact on local communities and tourism. The likelihood of challenge due to inconsistency as a result of having no formal published policy will be reduced. Amending the OGEL will bring the UK export licensing regime for cultural goods closer in line with the EU licensing regime

Key assumptions/sensitivities/risks (%)	Discount rate	3.5
Estimated cost (administrative burden) of cases going to RCEWA as a result of the proposed temporary licence policy is £5,500 for exporters, £1,870 for ACE and £880 for the expert adviser. It is unlikely more than one additional case every two years would go to RCEWA, as the percentage of cases referred to RCEWA by export advisers is less than 0.1% of all licence applications.		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	OUT

Evidence Base (for summary sheets)

The evidence base sets out the background and impacts of the proposed introduction of a formal policy for temporary export licences and the proposed amendment of the Open General Export Licence (OGEL).

Background

Review of procedures for dealing with applications for temporary export licences

The purpose of the export licensing control for cultural objects is to give an opportunity for the retention in this country of cultural objects where they are found to be national treasures. Because of this, the current export licensing system provides that when exporters apply to permanently export cultural objects over a specified age and financial thresholds, which have been in the UK for 50 years or more, such objects are scrutinised by an expert adviser to assess whether they are of national importance and therefore “national treasures” in the context of the Waverley criteria¹. The relevant policy is set out in Arts Council England (ACE)’s Guidance to Exporters of Cultural Goods: Procedures and Guidance. Applications for export licences for cultural goods are issued by the Export Licensing Unit (ELU), based at Arts Council England, on behalf of the Secretary of State.

By contrast, cultural objects which are the subject of temporary licence applications are not normally scrutinised for national importance. There is no formal policy or written guidance setting out considerations that will be taken into account when dealing with applications for temporary export licences for cultural objects or grounds for refusing such applications. The position is the same with regard to subsequent applications for objects which have been exported under a temporary licence and returned, and applications to extend temporary licences where the item is currently outside the UK. In practice, the principal consideration is whether the object is physically fit to travel. In addition, the Secretary of State must be satisfied that the applicant and/or owner has offered all the guarantees the Secretary of State considers necessary for the object to be returned at the expiry of the period of temporary export.

The effect of this is that cultural objects exported under temporary licences may remain outside the UK long term or even indefinitely as a result of continuous extensions of the temporary licence, without their having undergone scrutiny to determine whether or not they are national treasures. This is not the intended purpose of a temporary licence and undermines the purpose of the export licensing system to provide an opportunity for the retention in this country of objects found to be national treasures.

Objects found to be national treasures

When exporters apply to permanently export cultural objects over specified age and financial thresholds which have been in the UK for 50 years or more, the objects are scrutinised to assess whether they are national treasures. Export licence applications are referred to an expert adviser who considers whether the object meets the Waverley criteria which are used to assess whether an object is a national treasure. If the expert adviser considers that the object meets one or more of the criteria, or is unsure, the application is referred to the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest (RCEWA) which is an advisory body set up to make recommendations to the Secretary of State on the export of objects found to be national treasures. If the Secretary of State accepts the RCEWA’s recommendation that the object is a national treasure the export licence application will be deferred to allow a UK institution or individual (where certain conditions, including the public display of the object, are met) to make a matching offer to purchase the object and keep it in the UK. A matching offer means offering to pay the value recommended by the RCEWA (“the fair matching price”), which is based on evidence (such as a recent sale price) submitted to it by the export licence applicant.

¹ The Waverley criteria are used to measure whether the object should be considered a national treasure on the basis that the object’s departure from the UK would be a misfortune on one or more of the following grounds:

History	Aesthetics	Scholarship
Is it closely connected with our history and national life?	Is it of outstanding aesthetic importance?	Is it of outstanding significance for the study of some particular branch of art, learning or history?
<i>Waverley 1</i>	<i>Waverley 2</i>	<i>Waverley 3</i>

Currently, in some cases, an object which is the subject of a temporary export licence application has already been found to be a national treasure by the RCEWA but the applicant, having subsequently withdrawn their application for a permanent export licence or having been refused a permanent licence as a result of the owner refusing to accept a fair matching offer (or making known their intention to do so), has applied for a temporary licence. The fundamental purpose and spirit of the export licensing system, which is to provide an opportunity for the retention of national treasures in the UK, is undermined by granting an unconditional temporary licence in such cases.

Review of the Open General Export Licence (Objects of Cultural Interest) (OGEL)

Cultural objects not in free circulation²

Export controls for cultural objects are derived from both UK and EU legislation and, as far as possible, the UK licensing regime works in tandem with the EU requirements. The Open General Export Licence (OGEL) permits the export of specified cultural objects to a destination in another EU state without the need to apply for an individual export licence, so reducing the administrative burden on exporters of those objects.

At present, there is an inconsistency with the two regimes with regards to cultural objects that have been brought into the UK from a country outside the EU, which are not in free circulation. Such objects may be re-exported without an EU licence, but if the value of the object is over the relevant UK thresholds an individual UK licence will still be required. We consider this to be an unnecessary burden on exporters and to be inconsistent with EU requirements and therefore propose amending the OGEL, so that it will include cultural objects that have been brought into the UK from a country outside the EU, which are not in free circulation. This will remove the need for exporters to apply for UK licences in such cases, and will therefore reduce the burden on exporters, particularly overseas dealers who wish to exhibit for sale in the UK; and will also reduce the administrative burden of the Export Licensing Unit (ELU), based at Arts Council England, which issues individual export licences for cultural goods on behalf of the Secretary of State. It will also bring the UK export licensing regime for cultural objects closer in line with the EU export licensing regime.

While wishing to reduce the administrative burden for exporters, we are mindful of the need to ensure that any changes to the existing regime do not undermine the ability to identify and potentially retain objects that are found to be national treasures. Under the current policy, cultural objects are only usually referred to an expert adviser to assess whether they are national treasures if the object has been in the UK for more than 50 years. However, in cases where objects are not in free circulation the object is usually in the UK on a temporary basis, and therefore it would not reach the 50-year threshold for referral to an expert adviser. Therefore, the proposed changes would not compromise the current process of scrutiny.

There are, however, two exceptions. Firstly, objects which were previously in free circulation in the UK and have been exported under a temporary licence may be brought back to the UK and not released into free circulation. Such objects may have been in the UK for more than 50 years before the temporary licence was granted and therefore should be referred to an expert adviser for scrutiny. We therefore propose that the revised OGEL will clearly state that it does not include any object which has been returned to the UK following its temporary export under the authority of a temporary export licence. This will ensure that they will continue to be scrutinised for national importance where they meet the relevant criteria.

Secondly, where cultural objects which are not in free circulation have been imported into the UK from a jurisdiction which is within the customs territory of the EU but outside the fiscal territory of the EU (eg. the Channel Islands), they will also not be covered by the revised OGEL. This is because such goods are "Community goods" for EU licensing purposes and so still require an EU licence in any event.

Spoliated cultural objects where their return has been approved by the Secretary of State

² Article 29 of the Treaty of the Functioning of the European Union states that products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

The Spoliation Advisory Panel (SAP) was established by the government in 2000 to resolve claims from people, or their heirs, who lost property during the Nazi era, which is now held in UK national collections. Recommendations made by the SAP are submitted to the Secretary of State for approval. Its proceedings are an alternative to litigation, and its recommendations are not legally binding on any parties. However, if a claimant accepts the recommendation of the Panel, and the recommendation is implemented, the claimant is expected to accept this as full and final settlement of the claim.

At present, even though there has been agreement that the spoliated cultural object(s) should be returned, the exporter is still required to apply for an individual export licence, which is an unnecessary administrative burden on the applicant and causes unnecessary delay. This proposal will enable the object to be exported within the EU without the need to obtain an individual UK licence. However, the proposal will not permit the return of such objects outside the EU unless an EU licence is also granted. It is not intended to amend the OGEL to include objects which are the subject of a private restitution agreement (agreed privately without using the Spoliation Advisory Panel and not seen by the Secretary of State) and these will continue to require an individual UK or EU export licence.

Changes to OGEL to reflect current practice

Paragraph 3 of the OGEL states that those exporting representations of the likeness of any British historical person (made otherwise than by photography and excluding a coin) valued at £10,000 or more but less than £65,000 must present to customs officers a certificate from the Director of the National Portrait Gallery or Keeper of the Scottish National Portrait Gallery (as appropriate) stating that the article is not of national importance in his opinion. Paragraph 4 states that those exporting textiles (excluding carpets and tapestries) valued at £12,000 or more but less than £65,000 must present to customs officers a certificate from the Director of the Victoria and Albert Museum stating that the article is not of national importance in his opinion. We have consulted the relevant institutions and established that, in practice, such certificates are no longer issued and exporters wishing to export such objects apply for individual export licences. We therefore propose to update the OGEL to reflect this current practice.

Problem under consideration

Applications and re-applications for temporary licences

The Secretary of State has the power to issue temporary licences under the Export of Objects of Cultural Interest (Control) Order 2003. To date, this has been undertaken on his behalf on an ad hoc basis, with no clear guidance on the period of time for which a temporary licence should be issued or the number of times a temporary licence may be extended. This has resulted in some applications for extensions to temporary licences being granted repeatedly because there are currently insufficient grounds to refuse them in the absence of written guidance or policy. In effect this allows exporters to use temporary licences to keep cultural objects outside the UK long term or even indefinitely. This is of particular concern in circumstances where an object has been classified as a national treasure by the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest (RCEWA) but nevertheless has been authorised to stay outside the UK for a considerable amount of time through a temporary licence which has been granted for a long period and / or repeatedly extended. In some cases, an object has already been found to be a national treasure but the applicant has withdrawn their application or has been refused a permanent licence as a result of refusing to accept a fair matching offer (or making known their intention to do so), and has applied for a temporary licence. The absence of written guidance or policy under existing arrangements again means there are insufficient grounds to refuse such applications. The examples above undermine the fundamental purpose and spirit of the export licensing system, which is to provide an opportunity for the retention of national treasures in the UK. The absence of a proper published policy on temporary licences also means that those deciding whether to grant applications for temporary licences risk acting inconsistently.

Amendment to the Open General Export Licence (OGEL)

Export controls for cultural objects are derived from both UK and EU legislation and, as far as possible, the UK licensing regime works in tandem with the EU requirements. However, at present, there is an inconsistency with the two regimes in respect of cultural objects which have been brought into the UK from a country outside the EU and which are not in 'free circulation'. Although such objects may be re-exported without the need to obtain an EU licence they will still require a UK licence. This increases the

administrative burden on exporters and can cause unnecessary delays. It is particularly burdensome in cases where cultural objects are temporarily brought into the UK for exhibition or sale.

Rationale for intervention and policy objective

Applications and re-applications for temporary licences

The current absence of policy or written guidance for temporary licences creates a loophole whereby applicants can use temporary licences to keep cultural goods outside the UK long-term or indefinitely, even where the cultural goods have been found to be national treasures. The retention and public display of such cultural goods can have positive knock-on effects through their cultural, historic and scholarly significance. A policy is therefore needed on how to deal with applications and reapplications for temporary licences, in the interests of good practice; consistency; to reduce legal risk; and to close the loophole that leads to the possible long-term or indefinite loss to the UK of national treasures.

Amendment to the Open General Export Licence (OGEL)

We propose amending the OGEL so that it will include cultural objects that have been brought into the UK from outside the EU, and which are not in free circulation, which will remove the need for exporters to apply for an individual UK licence in these circumstances. This will reduce the burden on exporters, particularly overseas dealers who wish to exhibit for sale in the UK. It will also reduce the administrative burden of the Export Licensing Unit (ELU), which issues individual licences on behalf of the Secretary of State. It will also bring the UK export licensing regime for cultural objects closer in line with the EU export licensing regime.

Description of options considered (including do nothing)

Five intervention options have been considered in addition to doing nothing. The five policy intervention options were summarised in the consultation stage impact assessment and **this impact assessment summarises the preferred option only.**

Option 0: do nothing

The do nothing option would not introduce any new costs or benefits. It is used as a baseline against which to assess the preferred option.

Option 1

Provide guidance on temporary licences:

Introduce a policy whereby the maximum period for which a temporary licence is normally granted will be three years, as is presently the case. However, the licence will not normally be extended more than once and the extension will not normally exceed three years³, irrespective of the period for which the original temporary licence was granted. At the end of the extension, the cultural object must be returned to the UK. The proposals will apply to all applications for individual temporary licences, irrespective of the length of time for which the original licence is requested.

Also introduce a separate policy for all cultural objects which have been found to be national treasures. The temporary licence will normally only be issued for public display purposes, will not exceed three years and no extension will be granted. The cultural object will have to be returned to the UK when the licence expires and will then have to remain in the UK for a further three years before a further application for a temporary licence can be made. The proposed policy will be set out in the existing guidance for exporters.

³ Three years is appropriate as this is consistent with the Open Individual Export Licence (OIEL) which allows museums and galleries to export certain cultural objects temporarily outside the UK for up to three years

Amend OGEL:

Amend the OGEL so that the following items may be exported under it:

- i) cultural objects that have been brought to the UK from outside the EU and are not in free circulation;
- ii) cultural objects which the Spoliation Advisory Panel has recommended should be returned to the claimant where the recommendation has been approved by the Secretary of State.

It is also proposed that the OGEL be updated to reflect current practice by the removal of existing paragraphs 3 and 4 which relate to the conditions of the licence and are obsolete. Paragraph 3 states that those exporting representations of the likeness of any British historical person (made otherwise than by photography and excluding a coin) valued at £10,000 or more but less than £65,000 must present to customs officers a certificate from the Director of the National Portrait Gallery or Keeper of the Scottish National Portrait Gallery (as appropriate) stating that the article is not of national importance in his opinion. Paragraph 4 states that those exporting textiles (excluding carpets and tapestries) valued at £12,000 or more but less than £65,000 must present to customs officers a certificate from the Director of the Victoria and Albert Museum stating that the article is not of national importance in his opinion. We have consulted the relevant institutions and established that, in practice, such certificates are no longer issued and exporters wishing to export such items apply for individual export licences.

Main points raised in the consultation

Government consulted on the proposed changes between 9 May and 4 August 2012. Sixteen responses to the consultation were received - seven from museums, five from trade organisations and bodies, two from national bodies and two from government organisations.

On the whole the responses welcomed the proposed changes. Ten respondents commented on the impact on businesses, agreeing with the assessment of the costs and benefits made in the consultation stage impact assessment. The remaining six respondents did not comment on the assessment of costs and benefits. Some comments received fell outside the scope of the issues considered in this consultation exercise and so have not been included in this impact assessment.

The following main comments were made about the policy proposals:-

- One respondent expressed concerns about the impact of the temporary licence policy on historic ships due to the nature of such object and their use. For example, some historic ships may still undertake commercial trade between the UK and other countries, or may be based temporarily abroad for certain activities.
- Five respondents considered the proposed policy for **cultural objects found to be national treasures** to be unfairly discriminatory – some were against both the limitation to temporary export for public display and the fact that only one three year period is to be allowed whilst others agreed with, or were silent on, the limitation of export to one period of three years but considered the policy of only allowing export for public display would penalise owners who are resident abroad and wished to enjoy their personal property for short periods of time, whilst keeping the object primarily in the UK. It was pointed out that there was no such requirement for public display whilst objects remained in the UK. All other respondents agreed with the proposed policy for temporary licences for objects found to be national treasures.
- All respondents either agreed with the proposal to amend the OGEL or did not comment.

Proposed policy following consultation

We consider that the proposed temporary licence requirements are proportionate and that there is insufficient reason to treat historic ships differently from other objects as a matter of general policy (bearing in mind that there is discretion to depart from the general policy if there are exceptional circumstances in a particular case).

We considered in depth the responses to the consultation in relation to the policy for temporary licences for **cultural objects found to be national treasures** and have concluded that the proposed policy - limiting temporary export for public display and for three years only - should be implemented for the

following reasons:

- Once an object has been identified as a national treasure, it is considered that temporary licences should only be available in limited circumstances where there is a clear public benefit.
- There is a public benefit in allowing temporary export for a short period for the purpose of display in a public institution, giving the public (both UK and international) the opportunity to view national treasures from the UK which might not otherwise be on display at all. There would generally be no such benefit in permitting export for private purposes.
- An owner who wishes to export their property for personal reasons is not prevented from doing so, as they still have the opportunity of applying for a permanent licence.
- In view of the importance of the objects which have been found to be national treasures the Secretary of State requires a particularly high level of assurance that they will be returned at the expiry of the period of temporary export. It is considered that, in general, this will only be provided where an object is on display in a public institution.
- The number of objects found to be national treasures by the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest is extremely small. In 2012-13 only 19 objects were found to be national treasures out of the 33,842 objects which were issued with export licences after they had been referred to expert advisers.
- It is intended that the policy of limiting temporary export for public display purposes and to three years will normally be applied to cultural objects found to be national treasures. If there are exceptional circumstances then the Secretary of State may be persuaded to depart from normal policy.
- The requirement that the purpose of the licence is public display reflects existing practice, so formalising this requirement will not have any adverse impact on expectations within the trade.

The policy for temporary licences for **cultural objects found to be national treasures** is intended to cover all objects that are national treasures and this should include all objects found by the Reviewing Committee to meet one or more of the Waverley criteria. It has come to our attention that the proposal as drafted in the consultation did not cover all the relevant circumstances (e.g. it would not have covered the situation where the applicant withdraws the licence application after the Committee's finding but before the recommendation is made to the Secretary of State). We therefore intend to amend the proposed policy to cover such situations.

This change does not impact upon the estimated values of the costs and benefits discussed below.

Additional minor changes proposed

In 2013, ACE proposed two further minor changes to the export licensing policy, relating to the maximum duration of temporary exports for musical instruments and motor vehicles:

- **Increasing the maximum duration of a temporary export under the OGEL for motor vehicles and musical instruments from 3 months to 6 months**
- **Increasing the maximum duration of a temporary export under EU specific open licences for motor vehicles and musical instruments from 3 months to 6 months**

The rationale is that a maximum duration of 6 months would be more suitable given the logistics and timeframes for transporting objects a long distance under temporary export, e.g. to and from Australia and New Zealand. These changes would have a small deregulatory impact, as it would lessen the time constraints for exporters in temporarily exporting these objects under the relevant licences. Based on the information provided by ACE, the minor impacts these additional propositions have are so negligible there would be no need to quantify them. As the changes were proposed after the main public consultation, ACE consulted the main stakeholders for musical instruments and motor vehicles during summer 2013 and these additional proposals were welcomed. The minor amendments to the OGEL and

EU specific open licences can be implemented alongside the other proposed changes discussed in this impact assessment.

Costs and benefits of Option 1 (including administrative burden)

Provide guidance on temporary licences:

This option could result in additional cases being referred to RCEWA, if applicants decide to apply for a permanent instead of temporary licence. If additional cases are referred to RCEWA, there will be a small increase in the administrative burden for exporters, the Reviewing Committee and its secretariat, and the expert advisers who prepare submissions for RCEWA. However, cases are only referred to RCEWA where expert advisers consider the objects to be potential national treasures. There were 24 cases considered by RCEWA in 2012-13. The percentage of cases referred to RCEWA by expert advisers each year is less than 0.1%, and so it is not estimated that the proposed policy for temporary licences would lead to many more cases being referred to RCEWA. If one extra case every two years was referred to RCEWA, it is estimated that the indirect impact of additional administrative burden would result in additional costs of £5,500 for exporters, £1,870 for the Reviewing Committee and its secretariat, and £880 for expert advisers. This averages out at approximately £4,000 a year.

The estimated increase in the administrative burden which would result in more cases being referred to RCEWA is mitigated by the potential adverse effects on the UK's heritage that would result from the loss of national treasures abroad if cultural objects avoid scrutiny as to whether they meet the Waverley criteria. This option would not result in an increased administrative burden for the majority of exporters applying for temporary licences, because it is not proposed that they would have to provide a history of previous temporary licences for objects for which a temporary licence is requested. The proposed policy will be set out in the existing guidance for exporters.

Amend OGEL:

This will result in a reduction in the administrative burden for exporters and the Export Licensing Unit at ACE. The resulting savings are estimated as £6,220 a year for exporters and £4,290 a year for the Export Licensing Unit.

Non-monetised Impacts

Applications and re-applications for temporary licences:

The proposed temporary licence policy would avoid the loss of national treasures abroad and could lead to national treasures being purchased by UK institutions, instead of being loaned abroad, leading to a positive impact on local communities and tourism. The likelihood of challenge due to inconsistency as a result of having no formal published policy will be reduced. In addition, the current absence of clear guidance or policy leads to additional time spent considering individual temporary licence applications for DCMS and ACE. The guidance would provide greater clarity for assessing applications. However the size of these benefits is uncertain and will vary from case to case; and so cannot be robustly quantified.

Whilst the benefits cannot be monetised robustly, the additional costs that could result from a small number of additional cases potentially being referred to RCEWA (approximately one every two years on average) is considered easily justified in order to ensure that national treasures are properly scrutinised before being allowed to leave the country permanently. Any such increase in these costs is mitigated by the potential adverse effects on the UK's heritage that would result from the loss of national treasures abroad if cultural objects avoid such scrutiny.

The proposed policy will be set out in the existing guidance for exporters.

Amendment to the Open General Export Licence (OGEL):

Amending the OGEL will bring the UK export licensing regime for cultural goods closer in line with the EU licensing regime.

Risks and assumptions

Applications and re-applications for temporary licences

The additional costs (in terms of the administrative burden) for more cases going to RCEWA as a result of the preferred option for which applications and re-applications for temporary licences are changed are based on the following:

- The average cost of each case that goes to RCEWA has been estimated at £1,870 for the Reviewing Committee and its Secretariat on the basis of travel and subsistence and staff costs (based on estimates from the RCEWA Secretariat).
- The average cost of each case that goes to RCEWA has been estimated as £5,500 for exporters (based on varying costs provided by exporters). This covers staff time, the cost of transporting the object to and from RCEWA meetings and, in some cases, the insurance costs of taking items to RCEWA meetings (although some exporters have worldwide insurance, so do not need to purchase additional insurance).
- The average cost of each case that goes to RCEWA has been estimated as £880 for expert advisers (based on various estimates from current expert advisers of the additional time they spend preparing such cases multiplied by estimated staff costs (which will vary)).

It is unlikely more than one additional case every two years would go to RCEWA as a result of the temporary licence proposals (applicants may decide to apply for a permanent instead of temporary licence) - probably fewer, as the percentage of cases referred to RCEWA by expert advisers is less than 0.1%.

The annual costs are projected forward for ten years to give a net present value on the assumption that the number of temporary licences and the associated costs stay constant (in real terms) going forward. Whilst this is based on the best available evidence, in reality there may be some deviation in the number of temporary licences in individual years. All consultation respondents either agreed with the estimated costs or did not comment on them. Implementation is assumed to be in 2014.

The proposed policy will be set out in the existing guidance for exporters.

Amendment to the Open General Export Licence (OGEL)

The estimates for the OGEL amendment are based on figures provided by the ELU which show that from September 2010 to August 2011 it issued licences for 1529 cultural objects which had not been released into free circulation.

In order to work out the estimated savings to the ELU, the estimated number of cases that ELU will no longer need to process (1529) has been multiplied by the amount of time spent checking them and this has then been multiplied by the hourly rate of the staff responsible for this task (see below).

Estimate of reduced administrative burden foreseen as a result of proposed amendments to the OGEL:

1) For the ELU

The ELU has provided statistics showing that from Sep 2010 to August 2011 it issued licences for 1529 cases which require this at present, but will not if the OGEL is amended as proposed (i.e. applications for non-community goods that require a UK licence to be exported outside the EU because they are valued above the EU threshold).

It currently takes a Grade D and a Grade C seven minutes each to check these. Scaling this up for the 1529 annual cases and multiplying by the mid-range wages of Grade D and Grade C staff (£10.97 and £13.09 per hour respectively) yields a total cost saving for the ELU of £4,290 per year.

2) For exporters

In order to work out the estimated savings to exporters, the estimated 1529 number of cases for which they will no longer need to submit export licence applications has been multiplied by the amount of time spent by exporters in submitting applications at present. This has then been multiplied by the estimated hourly rate of the staff in question from exporter sources. (Different firms may pay different rates for the work in question, so there is no standard hourly rate for staff carrying out this task.). Exporter sources estimate it takes 15 minutes to research and apply for a licence for a 'non-community' good. Combining this with the hourly wage rate for the relevant staff yields a total cost saving of £6,220 per year.

The administrative cost savings for both the ELU and exporters are trended forward for ten years to give a net present value, on the assumption that the number of cases and the staff costs remain constant (in real terms) over time. The number of cases is taken from one year's information as this is the best data available, but it is possible that there may be some deviation in the number in individual years going forward. Implementation is assumed to be in 2014. All consultation respondents either agreed with the estimated costs or did not comment on them.

Summary of preferred option and implementation plan

Option 1 is the preferred option with an estimated net present value benefit of approximately £49,000 over ten years. The proposed temporary licence policy would avoid the loss of national treasures abroad. Amending the OGEL would reduce the administrative burden of both exporters and the export licensing unit and would bring the UK export licensing regime closer in line with the EU export licensing system. The consultation took place in the summer of 2012 and it is proposed that revised guidance on temporary licences and a revised Open General Export Licence will be published in towards the end of 2014.

Competition Assessment, Small Firms Impact Test and Micro Organisations

The proposed policies are not expected to have a substantive impact on competition. Those businesses that have licence applications referred to the RCEWA would incur small additional costs, but any impact on wider competition would be negligible.

Statistics show that the majority of temporary licence applications for cultural goods are made by businesses which employ 50 employees or more. This was the case for 81% of temporary export licence applications for cultural goods made from 1 May 2009 to 30 April 2010 (inclusive). In addition, businesses which employ 50 employees or more are more likely to be applicants for cases referred to RCEWA. This was the case for 80% of cases referred to RCEWA between from 1 May 2009 and 30 April 2010 (inclusive).

The proposals to amend the OGEL so that exporters no longer need to obtain individual licences for cultural goods brought into the UK temporarily from countries outside the EU, but not released into free circulation, or spoliated goods which the Secretary of State has agreed should be returned, will benefit those businesses affected, as it will reduce their administrative burden. Hence it is not proposed to exclude micro organisations from this change. It is also not proposed that micro organisations should be exempted from the proposals to introduce a formal policy for dealing with applications for temporary licences. To do so would open up a loophole by allowing those wishing to avoid having their cultural goods scrutinised to determine whether or not they are national treasures to achieve this by getting smaller organisations to apply for temporary export licences.

Statutory Equality Impact Tests

We have also considered the potential effects of both proposals on protected groups under the Equality Act 2010, and do not think that the changes will impact or disadvantage any persons with protected characteristics.

Other specific impact tests

Other specific impact tests have been considered including Justice, Sustainable Development, Carbon Assessment, Environment, and Rural Proofing. We do not consider that there will be any significant or quantifiable impact in any of these specific areas.

Direct costs and benefits to business calculations (following OIOO methodology)

As this proposal does not require any legislative change, this proposal is out of scope of OIOO and OITO. The proposal is in line with the Better Regulation framework and due to the small nature of the impacts, and the majority being indirect, there is no need to calculate the negligible costs or benefits to businesses in this proposal.