

Note on the approval of museums and galleries under Section 136 of the Tribunals, Courts and Enforcement Act 2007

1. For a museum to benefit from immunity from seizure it will need to have been approved under Section 136 of the Act by the appropriate approving authority and to have complied with requirements about the publication of information specified in the Regulations.
2. In England we will be writing to national and some other museums inviting them to apply for approval. Information will also be posted on the DCMS website in order that other museums can consider applying.
3. Before the Secretary of State can give his approval, he will need to be satisfied that a museum's procedures for undertaking due diligence are robust, comply with international standards and specifically with the Department's due diligence Guidelines: Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material, issued by DCMS in 2005.
4. We will send museums a questionnaire to complete which invites them to confirm the above and describe how they operate their due diligence procedures. This will then form the basis of the assessment. The DCMS will be assisted in this by several independent consultants (and, we expect, by the Museums, Libraries and Archives Council) who will produce written assessments of individual applications. On the basis of these assessments, advice will be provided to DCMS Ministers who will either grant approval or recommend changes to an institution's policies or procedures as necessary. DCMS will publish the procedures agreed with each approved museum on the DCMS website or a link to the Museum's own website where this may be viewed.
5. Where such arrangements are not already in place, approved institutions will be expected to:
 - Publish in due course their due diligence or ethical loans policy;
 - Formalise training arrangements on due diligence for relevant staff;
 - Ensure that staff have access to appropriate advice;
 - Ensure that standard loan forms include "full provenance history" and a declaration to say the lender "knows of no third party claim" against the object in question; and
 - Ensure that all records on due diligence enquiries are kept for a minimum of 6 years.
6. We will also be putting in place procedures for the independent

monitoring of approved institutions and reporting requirements.

7. Under Section 136(3) of the Act, the Secretary of State may withdraw approval from an institution if it appears to him that its procedures for establishing the provenance or ownership of objects are inadequate or because it has failed to comply with a requirement of the Regulations under Section 134(9) on the advance publication of information about the objects to be borrowed.

8. One of the legal requirements which approved museums must follow is to publish information free of charge on their websites about each item they are borrowing from abroad at least 4 weeks before the day on which the object is brought into the UK. There will also be a link to these exhibitions on the website of the Museums, Libraries and Archives Council.

9. Museums will also be required to keep this information on their websites for the full period of the exhibition (or for twelve weeks, whichever is the longer period).

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