



BERMUDA
1983 : 42

HISTORIC ARTICLES (EXPORT CONTROL) ACT 1983

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[15 July 1983]

[preamble and words of enactment omitted]

Short title

1 This Act may be cited as the Historic Articles (Export Control) Act 1983 *[commencement provision omitted]*.

[This Act came into operation on 15 September 1983]

Interpretation

2 In this Act, unless the context otherwise requires—

"licence" means a licence granted under section 4;

"historic article" means —

- (a) any chattel, including hog money and any other Bermudian coin, Perot and any other Bermudian stamp, the work of a Bermudian silversmith, Bermudian cedar carving and furniture which —

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- (i) is of national, historical, scientific or artistic importance; and
 - (ii) is, or appears to be, more than 50 years old:
- (b) any book, diary, letter, document, paper, or other written matter (whether in manuscript or printed form), photographic negative or print, film, printed reproduction of any picture or sound recording which —
- (i) relates to Bermuda and is of national, historical, scientific, artistic or literary importance; and
 - (ii) is more than 50 years old;
- (c) any work of art which relates to Bermuda, is more than 50 years old, and is of national, historical or artistic value or importance;

"Minister" means the Minister responsible for Archives.

Restrictions on export of historic articles

3 (1) A person shall not export or attempt to export, an historic article from Bermuda except under the authority of, and in conformity with the terms and conditions of a licence granted to him by the Minister under this Act.

(2) Nothing in this section shall apply to an historic article lawfully taken and ordinarily kept outside Bermuda but temporarily within Bermuda.

Export licences

4 (1) An application for a licence to export an historic article from Bermuda shall be in such form as the Minister may determine.

(2) The Minister, in considering any application under this section, shall, in respect of the historic article sought to be exported, have regard to —

- (a) its historical, scientific, cultural, literary, artistic or other special national or local importance;
- (b) its rarity; and
- (c) any other matters which appear to him to be relevant.

(3) After having regard to the matters referred to in subsection (2) and after making such inquiries and investigations and obtaining such expert opinion as he thinks fit, the Minister may grant the licence, either unconditionally or subject to such terms and conditions as he may think fit to include in the licence, for the export of the historic article from Bermuda.

(4) A licence issued under this section shall be in writing and shall be in such form as the Minister may determine.

(5) Without prejudice to subsection (3), the Minister may, when granting a licence to export an historic article from Bermuda, impose conditions —

- (a) requiring the owner of the historic article to permit the article to be copied in such manner and in such numbers as the Minister may direct;
- (b) requiring the owner to deliver the historic article to such person as the Minister may direct for the purpose of being packed and dispatched from Bermuda, at the cost and risk of the owner, to the address specified by the owner;
- (c) requiring the historic article to be returned to Bermuda within a specified period.

(6) Every copy of an historic article made pursuant to subsection (5)(a) shall, subject to the provisions of the Copyright Act 1956 of the United Kingdom applicable to Bermuda [*title 17 item 47*], be the property of the Crown and shall be kept in safe custody of the Minister.

Appeals

5 (1) A person who, having applied for a licence, either—

- (a) is not granted one within 2 months of making his application;
- (b) has his application refused or granted subject to conditions with which he does not agree,

may appeal to a magistrates' court ("the court") on a point of law or mixed fact and law within 21 days (or such longer period as the court may allow) after in a case where paragraph (a) applies, the expiry of the 2 months mentioned in that paragraph, or, in a case where paragraph (b) applies, the receipt by him of notification of the Minister's decision.

(2) On such an appeal the court shall decide the point of law involved and make such order as the circumstances require, being either—

- (a) an order substituting its own decision for that of the Minister; or
- (b) an order remitting the order to the Minister for reconsideration by him in light of the court's directions.

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(3) A decision of the Minister on an application for a licence under this Act shall be final, subject to subsections (1) and(2).

Offences; forfeiture

6 (1) Every person who, without reasonable excuse (proof whereof shall be upon him), contravenes section 3 commits an offence:

Punishment on summary conviction : imprisonment for 6 months or a fine of the level 4 amount or both such imprisonment and fine.

(2) Without prejudice to subsection (1), where a person who is the exclusive owner of an historic article is convicted of an offence under that subsection, the historic article the subject of the offence shall be forfeiture to the Crown, and the provisions of the Revenue Act 1898 [*title 14 item 10*] relating to the forfeiture of goods shall apply in relation to the article mutatis mutandis.

(3) The Minister may, notwithstanding subsection (2), give an historic article that has become forfeited to the Crown under that subsection to any person (including the person who was the owner of the article immediately before the forfeiture) to keep either absolutely or subject to any conditions the Minister may think fit to impose.

[Section 6 subsection (1) penalty on standard scale substituted for amount in \$ by 2004:6 s.18 & Sch 2 effective 26 March 2004]

Minister may negotiate for purchase of historic article for which export licence sought

7 (1) Where the owner of an historic article applies under this Act for a licence to export the article from Bermuda, the Minister may, if he deems it to be in the public interest that the article should remain in Bermuda, enter into negotiations with the owner for the purchase of the article.

(2) If the Minister and the owner of the historic article are unable to agree on the purchase price, the purchase price shall be determined by a valuer or valuers skilled in the valuation of historic articles appointed by the Minister and the owner and the Minister and the owner shall be bound by the determination of the valuer or valuers.

(3) Notwithstanding anything contained in this Act —

(a) if the historic article is not purchased by the Minister within 2 months of the owner's application for a licence the Minister shall grant a licence to the owner to export the article from Bermuda;

(b) the Minister may, as an alternative to paying to the owner any sum determined by the valuers or valuers to be the purchase price of the article, grant a licence to the owner to export the article from Bermuda.

[Amended by:

BR 5/1984

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