

CHAPTER 445**CULTURAL HERITAGE ACT**

To make provision in place of the Antiquities (Protection) Act, Cap. 54 for the superintendence, conservation and management of cultural heritage in Malta and for matters ancillary thereto or connected therewith.

3rd May, 2002;
15th August, 2002;
21st October, 2002;
1st January, 2003

ACT VI of 2002, as amended by Acts [XVIII of 2002](#), [II of 2005](#) and [XXXII of 2007](#); [Legal Notice 426 of 2007](#); and Acts [XXIII of 2009](#), [XXXIV of 2016](#), [XIX of 2019](#), [XXI of 2020](#) and [XLI of 2021](#) and [XXI of 2024](#).

Arrangement of Act

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PART I

PRELIMINARY

Short title.	1. The short title of this Act is the Cultural Heritage Act.
Interpretation. Amended by: XXXII. 2007.19; XIX.2019.3; XLI.2021.3.	2. In this Act, unless the context otherwise requires: "Agency" means the operating agency set up under article 8; "Board" means the <i>Bord tal-Warrant tar-Restawraturi</i> established by article 35; "co-ordinate" means exchanging views orally or in writing, before a decision or action is taken, with a view to avoiding conflicts, waste and errors or of putting a remedy thereto; "conservation" means any activity required to maximise the endurance and minimise the deterioration of any cultural property as far as possible, and includes examining, researching, testing, treating, recording and preserving any such cultural property or any part thereof; "Conservation and Protection Order" shall have the meaning assigned to it in article 63; "conservator-restorer" means a professionally qualified person holding a warrant under this Act; "contiguous zone" has the meaning as is assigned to it by the Territorial Waters and Contiguous Zone Act ;
Cap. 226.	"Council" means the National Council for Cultural Heritage established by article 12; "cultural heritage" means movable or immovable objects of artistic, architectural, historical, archaeological, ethnographic, palaeontological and geological importance and includes information or data relative to cultural heritage pertaining to Malta or to any other country. This includes archaeological, palaeontological or geological sites and deposits, human remains, landscapes, underwater and sea scapes, groups of buildings, as well as scientific collections, collections of natural specimens and art objects, manuscripts, books, published material, archives, audio-visual material and reproductions of any of the preceding, or collections of historical value, as well as intangible cultural assets comprising arts, traditions, customs and skills employed in the performing arts, in applied arts and in crafts and other intangible assets which have a historical, artistic or ethnographic value; "cultural property" means movable or immovable property to whomsoever they may belong forming part of the cultural heritage;
Cap. 497.	"Department of Government" shall have the same meaning assigned to it in the Public Administration Act ;
Cap. 552.	"development" has the meaning assigned to it in the Development Planning Act ; "Entities" means the Superintendence, the Agency, the Council and the Fund, and Entity shall be construed accordingly; "entrustment agreement" shall have the same meaning assigned to it

in article 51;

"excavation" means archaeological scientific, stratigraphic investigation and documentation to inform research, building construction projects, conservation, protection and management of archaeological contexts, taking note of provenience, matrix, association, artefacts, ecofacts, features and structures on land and in the territorial waters, and may include non-intrusive or intrusive techniques;

"exploration" means an activity on land and in the territorial seas or in the contiguous zone, carried out with the intention of discovering new data regarding the cultural heritage or in the search of discovering new movable or immovable items of cultural heritage value not yet documented on the national inventory of cultural property;

"field investigation" means a limited or detailed programme, as the case may be, of non-intrusive or intrusive fieldwork to determine the presence or otherwise of archaeological features, structures, deposits, artefacts or ecofacts within a specified area or site on land or underwater;

"financial year" means the period of twelve months ending on the 31st December in any year;

"Forum" means the National Forum for Cultural Heritage established in article 14;

"function" includes responsibilities, powers and duties;

"Fund" means the Cultural Heritage Fund established by article 13;

"Government agency" shall have the same meaning assigned to it in the [Public Administration Act](#);

Cap. 497.

"Government entity" shall have the meaning assigned to it in the [Public Administration Act](#);

Cap. 497.

"guardianship" and "guardianship deed" shall have the meaning respectively assigned to them in article 64;

"Heritage skills" shall include, but shall not be limited to, those skills, aptitudes and competences necessary for the completion of a specific work in the sphere of cultural heritage. These skills include the application of a heritage trade or craft, knowledge, custom, art, technique and skill as have been developed and safeguarded, whether through tradition or instruction, and having a conservation context;

"holder of cultural property" shall mean the person physically holding a cultural object on behalf of third parties;

"integrated conservation" means the whole range of measures aimed at ensuring the perpetuation of the cultural heritage, its maintenance as part of an appropriate environment, whether human-made or natural, its utilisation and its adaptation to the needs of society. Such an objective is to be achieved through the revitalisation and integration of cultural heritage within the physical environment of present-day society and by assigning a social function to such cultural heritage compatible with its dignity and its setting;

"intrusive object" means an object which is attached to the remains of a ship, to a natural topographic feature or to the subsoil of the sea-bed;

"inventory" means a list with associated information of cultural property which can be subsumed in the national inventory:

Provided that the national inventory shall mean that list with associated information of cultural property as established under article 7(5);

"investigation" means any activity for the purpose of obtaining and recording any information relating to cultural heritage and includes any works for the purposes of identifying, discovering, excavating, revealing, recovering and removing any object or material situated in, on or under any cultural property;

"landscape" means an area, as perceived by people, whose character is the result of the action and interaction of natural and, or of human factors;

Cap. 363. "Local Council" means a local council established under the [Local Government Act](#);

"Minister" means the Minister responsible for cultural heritage, and includes, to the extent of any authority given, any person specifically authorised by the Minister for any of the purposes of this Act;

"mission" means the purpose and objective of an organization;

"monitor" means a person accredited and duly authorised by, and working under the instructions of the Superintendence of Cultural Heritage to carry out monitoring activities and the term "monitoring" shall refer to an accredited person performing this task;

"museum" means a permanent institution in the service of society and of its development, and open to the public, which acquires, collects, conserves, researches, documents, communicates and exhibits for the purpose of study, education and enjoyment of cultural heritage and associated information of humankind and its environment for the public benefit;

"Non-Government Organisation" means any voluntary organisation the objective of which is the promotion of cultural heritage and may include the conservation, restoration, management, presentation and, or study of cultural property and which has been duly provided with a certificate of enrolment by the Commission of Voluntary Organisations under the Voluntary Organisations Act;

"owner" in relation to any cultural property includes the directus dominus, the sub directus dominus, the emphyteuta, the sub emphyteuta, the bare owner and the usufructuary;

"officer" and "employee" includes a public officer detailed for duty in any of the entities, committees or bodies established under this Act;

Cap. 390. "Perit" shall have the same meaning assigned to it in the [Periti Act](#);

Cap. 552. "Planning Authority" means the Authority established under the [Development Planning Act](#);

"possessor" means the person physically holding the cultural object in his own name;

"prescribed" means prescribed under this Act;

"protected zone" means an area in respect of which a Government Notice is in force and any area by which the aforementioned area is extended by a notice that is in force under this Act and includes the airspace above such an area and any waters, sea-bed and subsoil included in such an area;

"public collections" means collections of cultural objects which are the property of the Government of Malta, government entities, authorities, corporations, government foundations and associations;

"public officer" has the same meaning assigned to it by article 124 of the [Constitution](#);

"Regulator" means the Superintendence of Cultural Heritage;

"restoration" means a highly specialised activity to conserve the integrity of cultural heritage, and to reveal its cultural values and to improve the legibility of its original state, form and design, within the limits of still existing material. Such activity must be based on a critical, historical and scientific process of evaluation and not on conjecture;

"right of preference" means the right granted to the Superintendent by and in accordance with article 55;

"semi-public collections" means collections of cultural objects which are not directly owned by Government but such collections shall be subject to the obligations applicable to public collections in accordance with the provisions of this Act;

"scheduled buildings" shall have the same meaning assigned to it in the [Development Planning Act](#);

Cap. 552.

"ship" includes any vessel used in navigation by water, including a submarine;

"Superintendence" means the Superintendence of Cultural Heritage established by article 7 and "Superintendent" means the Superintendent of Cultural Heritage referred to in the same article;

"surveillance" means an activity by the Superintendence which includes an activity related to the control, direction, monitoring, regulation, investigation and recording of cultural heritage, and includes any activity in relation thereto;

"survey" means the use of non-intrusive and non-destructive techniques to determine the presence or absence of anomalies resulting from archaeological features, structures or deposits, within a specified area or site on land or underwater. For the purposes of this Act, survey includes any activity designed to examine and record an area or features thereof so as to describe and gather data in written, measured or graphic form;

"suspension notice" has the meaning assigned to it in article 62;

"territorial waters" has the meaning assigned to it in the [Territorial Waters and Contiguous Zone Act](#), and includes any waters enclosed between the baselines therein mentioned and the

Cap. 226.

coast;

"Underwater Cultural Heritage" means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least fifty years and which are related to Malta such as, but not limited to:

- (i) sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;
- (ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
- (iii) objects of prehistoric character:

Provided that Underwater Cultural Heritage shall not include pipelines, cables and installations placed on the seabed and still in use:

Provided further that the Underwater Cultural Heritage removed from waters shall include a reference to the remains of a ship, to part of the remains of a ship, to an object or part thereof, as the case may be:

- (a) having been washed away from those waters;
- (b) having been removed, or washed away, from the seabed, or the subsoil of the seabed, beneath those waters; or
- (c) having been removed, or washed away, from a natural topographic feature in those waters;

"warrant means the warrant granted in accordance with Part VI of this Act, and warrant holder shall be construed accordingly.

Objects to which provisions of this Act apply.

3. For the purposes of this Act, an object shall not be deemed to form part of the cultural heritage unless it has existed in Malta, including the territorial waters thereof, or in any other country, for fifty years, or unless it is an object of cultural, artistic, historical, ethnographic, scientific or industrial value, even if contemporary, that is worth preserving.

PART II

PRINCIPLES AND GENERAL DUTIES

Principles and duties.
Amended by:
XIX.2019.4.

4. (1) The provisions of the following sub-articles of this article and of the other articles of this Part shall not be enforceable in any court of law, however the principles therein contained are fundamental to the protection of the cultural heritage and it shall be the aim of the State to apply the same and to be guided thereby.

(2) Every citizen of Malta as well as every person present in Malta shall have the duty of protecting the cultural heritage as well as the right to benefit from this cultural heritage through learning and enjoyment. The cultural heritage is an asset of irreplaceable spiritual, cultural, social and economic value, and its protection and

promotion are indispensable for a balanced and complete life.

(3) The State in Malta shall have the duty of establishing and maintaining administrative and regulatory structures of superintendence so as to ensure that this heritage is protected and conserved, as well as such other structures as are required for the management of the care, exposition and appreciation of this heritage.

(4) The duty to protect includes the duty to document, conserve, maintain, restore and includes the duty to intervene whenever deemed fit, including in circumstances of misuse, lack of conservation or application of wrong conservation methods. Such duty to protect also includes the duty to encourage the sustainable use and maintenance of the cultural heritage resource, in accordance with the principles of integrated conservation, including that of:

- (a) encouraging the integration of conservation and management practices with respect to cultural heritage at all levels of government, local government, the private sector and voluntary sector;
- (b) ensuring that conservation, management and other initiatives affecting cultural heritage take account of policies of social inclusion;
- (c) ensuring that conservation, land planning and other initiatives affecting cultural heritage areas take into account the social fabric of existing communities and strive to improve the living conditions for all levels of society. Such initiatives should ensure, where possible, that they do not precipitate negative changes to the social fabric of the population of any given locality intervened upon;
- (d) promoting public awareness of the richness and extent of cultural heritage as an intrinsic part of humankind's environment, and of the need to prevent the debasement of cultural heritage assets upon which depends the quality of that same environment, and of the cultural, economic and social reasons justifying its protection;
- (e) taking into consideration the special problems of cultural heritage conservation, maintenance and management in anti-pollution policies;
- (f) promoting fiscal and financial policies aimed at encouraging owners of cultural heritage to maintain, conserve, protect and make good use of such property.

(5) The duty to make accessible includes the duty to exhibit, to research, to render accessible for research, study and enjoyment, the cultural heritage and to promote knowledge, appreciation and awareness of this heritage within the principle of social inclusion. The right of access to, and benefit from, the cultural heritage does not belong merely to the present generation. Every generation shall have the duty to protect this heritage and to make it accessible for future generations and for all mankind.

Conditions.

5. In performing its duty the State may delegate any of the duties set out in article 4 to entities already in existence, or to other public or non-statal entities which may be established for the purpose, provided that the State shall:

- (a) publish the conditions under which such delegation is given;
- (b) reserve the public ownership of all that is put in trust by such delegation;
- (c) reserve the right of superintendence.

Priority of cultural heritage.

6. The protection, promotion and accessibility of the cultural heritage shall be given very high priority in deciding public policy in all fields of activity in Malta.

PART III

CONSTITUTION, COMPOSITION AND FUNCTIONS OF ENTITIES

Superintendence.
Amended by:
XIX.2019.5;
XLI.2021.4.

7. (1) There shall be a regulator for cultural heritage hereinafter in this Act referred to as the Superintendence of Cultural Heritage, under the responsibility and management of the Superintendent of Cultural Heritage. The mission of the Superintendence is to fulfil the duties of the State to ensure the protection and accessibility of cultural heritage as defined in this Act.

Legal personality and judicial representation.

(2) The Superintendence shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, or suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act.

(3) The legal and judicial representation of the Superintendence shall vest in the Superintendent provided that the Superintendent may appoint any person, including any one or more of the officers or employees of the Superintendence, to appear in its name and on its behalf in any judicial proceedings and on any act, contract, instrument or other document whatsoever.

Appointment of Superintendent.

(4) The Superintendent shall be appointed by the Minister for a period of not more than five years under such terms and conditions as established in his letter of appointment. On the expiry of his term a person may be reappointed for a further term or terms.

Functions and duties of the Superintendence.

(5) It shall be the function of the Superintendence:

- (a) to act as a national repository for the national inventory of cultural heritage which function will include the right to establish, update, manage and, where appropriate, publish, or to ensure the compilation of a national inventory of cultural property as stipulated in article 53;
- (b) to exercise surveillance over the protection, excavation,

monitoring, exploration, conservation, restoration, maintenance, exhibition and accessibility, import, export and movement of cultural property;

- (c) to promote and conduct research in the field of cultural heritage and to conduct excavations and other investigations which may be required so that objects or aspects of cultural heritage be discovered, cared for and appreciated;
- (d) to authorise excavations, as well as to monitor excavations ensuring that such excavations, their documentation and the exhibition of the results thereof follow scientific methods and employ the best technology possible;
- (e) to ensure that adequate documentation is kept and archived in relation to excavation, exploration and search for antiquities, the conservation of cultural property and discoveries resulting from environment impact assessments;
- (f) to promote and ensure the best policies, standards and practices in the conservation and presentation of artefacts, collections, museums, buildings, monuments and sites and to maintain all necessary databases and information derived from or required to organise, plan, co-ordinate, and monitor restoration and conservation projects;
- (g) to advise and coordinate with the Planning Authority action in safeguarding cultural heritage when considering applications for planning permission relating to development affecting objects, sites, buildings or landscapes which form part of the cultural heritage as well as to advise other pertinent bodies on all matters of cultural heritage;
- (h) to advise the Minister with regard to cooperation with other governments and international organizations in the field of the protection of the cultural heritage;
- (i) after consulting the Council, to advise the Minister on the need of enforcing urgent repair or conservation works in accordance with article 57, as well as to the need for the compulsory acquisition of sites or buildings by the Government in accordance with the Land Acquisition (Public Purposes) Ordinance for the better protection of the cultural heritage;
- (j) generally to advise the Minister on all matters relating to the cultural heritage and cultural property;
- (k) to perform such other functions under this or any other law as well as such other functions as the Minister may from time to time assign to it;
- (l) to advise Government, in consultation with the Council and the Agency and other relevant bodies, on a policy of conservation and restoration;

- (m) to accredit for the purposes of this Act non-governmental organisations established to promote cultural heritage, including the conservation, restoration, management, presentation or study of cultural property which they hold in ownership or in trust, and to compile, maintain and regularly update a register of such non-governmental organisations:

Provided that any non-governmental organisation to be included in such a register is to obtain the prior approval of the Minister;

- (n) to advise the Minister, after discussion with the Council, regarding the entrustment of items of cultural heritage property to other cultural entities, cultural non-government organisations and local councils, according to conditions and terms stipulated in entrustment agreements;
- (o) without prejudice to the intellectual rights of stakeholder institutions and of individual researchers, to make publicly accessible through publication and dissemination the results of research and investigations carried out by the Superintendence or by other persons under its authority;
- (p) to undertake research and consult Government departments, private organisations and international organisations and other persons as may be required in the discharge of its duties under this Act; and
- (q) to appoint and accredit monitors and experts as necessary for the purposes of this Act.

Operating agency.
Amended by:
XIX.2019.6;
XLI.2021.5.

8. (1) There shall be an operating agency hereinafter in this Act referred to as the Agency to be called "Heritage Malta". The mission of the Agency is to ensure that those elements of the cultural heritage entrusted to it are protected and made accessible to the public as defined in this Act.

(2) The Agency shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, or suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act.

Legal and judicial
representation.

(3) The legal and judicial representation of the Agency shall vest in the Chairperson, provided that the Chairperson may appoint the Chief Executive Officer or any one or more of the officers or employees of the Agency, to appear in its name and on its behalf in any judicial proceedings and on any act, contract, instrument or other document whatsoever.

(4) It shall be the function of the Agency:

Functions of
Agency.

- (a) to ensure that museums, collections including reserve collections, sites, buildings and property, movable or immovable, forming part of the cultural heritage, owned or administered by it, are conserved, restored, administered, managed, operated, marketed, studied, researched and where applicable, excavated and presented for exhibition, in the best way possible;
- (b) to acquire in property or in trust objects, collections of objects, sites, buildings, for the Museums, collections, sites and buildings;
- (c) to perform or commission, in each case under the surveillance of the Superintendent, the restoration or conservation of cultural property owned or otherwise held or administered by the Agency;
- (d) to coordinate with the Malta Tourism Authority, the Planning Authority and other pertinent bodies, measures which are deemed necessary so that objects, sites and buildings forming part of the cultural heritage are protected and made accessible through any necessary conservation, maintenance, restoration, exhibition and promotion;
- (e) to promote public knowledge, education, appreciation and enjoyment of the cultural heritage;
- (f) in coordination with the Superintendence to consult with Local Councils in the preservation of the cultural heritage in their locality;
- (g) to promote and carry out research in the field of cultural heritage and, subject to the regulatory function of the Superintendent, to conduct excavations and other investigations which may be required so that objects or aspects of cultural heritage be discovered, cared for and appreciated;
- (h) to provide access to the Superintendent to documentation of works of restoration and conservation carried out at or by the Agency, and, where necessary, the principles, technology and methodology employed;
- (i) to act as a national consulting agency on matters related to conservation and restoration and any such matters related to its functions;
- (j) when so required, to advise Government, following consultation with the Superintendence and the Council, on a policy of conservation and restoration which will cover Malta and identify priority areas and special needs;
- (k) to set up and maintain all necessary systems, especially conservation databases, required to organise, document, plan, co-ordinate, control, monitor and generally undertake restoration projects

of the Agency;

- (l) to set up and maintain diagnostic science and conservation laboratories fully equipped for the purpose of fulfilling its functions;
 - (m) to enter into management agreements with entities and bodies for the management of cultural property;
 - (n) to perform such other functions under this or any other law as well as such other functions as the Minister may from time to time assign to it, and generally to advise the Minister on all matters relating to the cultural heritage and cultural property; and
 - (o) to set up and manage the Office of the Chief Herald of Arms of Malta.
- (5) (a) For the purpose of ensuring the better conservation, restoration, management, administration, marketing, exhibition, presentation or study of any particular part of the cultural heritage, the Agency may, with the written approval of the Minister, acting in consultation with the Superintendent, either delegate any of its functions to any existing entity or to any entity to be established, whether public or private, or a partnership thereof, as may be necessary, and in every case under such conditions as established by the superintendent and approved and published by the Minister in the Gazette, provided that whenever the delegation above-mentioned consists in an act of guardianship there shall be followed the provisions of article 64.
- (b) The Agency may, where appropriate, also fulfil its functions directly through its own resources.
- (6) The Agency shall give the Superintendent all information that he may require in order to enable him to perform his functions under this Act.

Board of Directors.

9. (1) The Agency shall be governed by a Board of Directors consisting of not less than five and not more than nine members, one of whom shall be the Chairperson, another the Deputy Chairperson, and a member nominated by the Minister responsible for Gozo.

(2) The members of the Board shall be appointed by the Minister for a period of not less than three years but not more than five years as may be determined in their letter of appointment. Members of the Board may, on the expiration of their term of office, be reappointed.

(3) The functions of the Board shall be:

- (a) to determine the policy and strategy of the Agency;
- (b) to employ and manage the human resources required to achieve the aims of the Agency;
- (c) to ensure the proper financial administration of the Agency;

- (d) to ensure the collaboration with other local and foreign bodies necessary for achieving the aims of the Agency.

(4) The Board shall appoint a Chief Executive Officer who shall be responsible to the Chairperson and the Board, and the appointment shall be for a period of not more than three years under such terms and conditions as stated in his letter of appointment. On the expiry of his term a person may be reappointed for a further term or terms.

(5) The meetings of the Board shall be called by the Chairperson, either on his own initiative or at the request of any two of the other members.

(6) Half the number of members for the time being constituting the Board shall form a quorum. Decisions shall be adopted at a meeting at which a quorum is present by a simple majority of the members present and voting. The Chairperson shall have an initial vote and, in the event of an equality of votes, a casting vote.

(7) Any member who has a direct or indirect interest in any contract or other action made or proposed to be made by the Agency, where such interest exists, shall disclose the nature of his interest at the first meeting of the Board after the relevant facts have come to his knowledge. Such disclosure shall be recorded in the minutes of the meeting, and such member shall withdraw from any meeting while such matter is discussed or decided by the Board.

(8) Subject to the provisions of this Act, the Board may regulate its own proceedings.

(9) Any document purporting to be an instrument made or issued by the Agency and signed by the Chairperson on its behalf shall be received in evidence and shall, unless the contrary is proved, be deemed to be an instrument made or issued by the Agency.

10. (1) The Minister shall prepare a policy document outlining the National Strategy for Cultural Heritage. In preparing such document the Minister shall consult with all the Entities set up under this Act and those other agencies, whether public or otherwise, as the Minister may deem proper. The Minister shall cause a copy of such document to be laid on the Table of the House as soon as it is ready and the House shall dedicate one sitting for a discussion on it.

National strategy
for cultural
heritage.
*Renumbered/
Amended by:
XIX.2019.9;
XLI.2021.6.*

(2) The Minister shall review the said strategy as often as may be necessary, and in any case not less than once every ten (10) years.

(3) In the exercise of their functions under this Act, the Superintendence and the Agency shall:

- (a) give effect, as soon as practicable, to any direction, not inconsistent with any provision of this Act which the Minister may give to the Superintendence and the Agency in relation to the policy to be followed by them in the discharge of their functions, and in relation to any matter which appears to the Minister to affect

the cultural heritage;

- (b) afford to the Minister facilities for obtaining any information with regard to the property and activities of the Superintendence and the Agency and for this purpose the Superintendence and the Agency shall each furnish the Minister with returns, accounts and other information with respect to its functions, and afford facilities for the verification of any information furnished, in such manner and at such times as the Minister may require.

National World
Heritage Technical
Committee.
Added by:
XLI.2021.7.

10A. (1) There shall be a National World Heritage Technical Committee which shall be composed as follows:

- (a) a Chairperson appointed by the Minister;
- (b) the Superintendent *ex officio*, or representative;
- (c) the Chief Executive Officer of the Agency *ex officio*, or representative;
- (d) the Director of the Restoration Directorate *ex officio*, or representative;
- (e) a representative of the Planning Authority;
- (f) a representative of the Environment and Resources Authority;
- (g) three (3) other persons appointed by the Minister from amongst entities working in the field of World Heritage Sites.

(2) The Chairperson of the Technical Committee and the members referred to in sub-article (1) shall be appointed for a period of three (3) years and may be reappointed for further periods of three (3) years each.

(3) Subject to the provisions of this Act and to such procedures as may be prescribed, the Technical Committee shall regulate its own proceedings or as provided in paragraph (j) of article 72.

Functions of the
Technical
Committee.

(4) The Technical Committee shall:

- (a) ensure and facilitate the collaboration between the different entities with direct or indirect responsibility for the protection and management of the World Heritage Sites of the Maltese Islands;
- (b) advise the Minister and Government on any matter affecting World Heritage Sites and on any other matter referred to it by the Minister, and subsequently ensure the implementation of the necessary measures as adopted by Government and as directed by the Minister;
- (c) draw the attention of the Government or of any entity, organisation or person to any urgent action that may be required with regard to World Heritage Sites; and

- (d) without prejudice to the provisions of this Act, co-ordinate response to UNESCO on matters affecting World Heritage Sites.

11. The Superintendence and the Agency shall be exempt from any liability for payment of any tax, other than customs or excise duties, for the time being in force in Malta.

Exemption from certain taxes.
*Renumbered/
Amended by:*
XIX.2019.10;
XLI.2021.8.

12. There shall be a National Council for Cultural Heritage, which shall be composed as follows:

National Council for Cultural Heritage.
*Renumbered/
Amended by:*
XIX.2019.11.
Substituted by:
XLI.2021.9.

- (a) a Chairperson appointed by the Minister;
- (b) a person appointed by the Minister responsible for tourism;
- (c) a person appointed by the Minister responsible for Gozo;
- (d) a person appointed by the Minister responsible for government property;
- (e) the Superintendent *ex officio*;
- (f) the Chairperson of the Agency *ex officio*;
- (g) the Chairperson of the Planning Authority *ex officio*;
- (h) the Chairperson of the Environment and Resources Authority *ex officio*;
- (i) the Director of the Restoration Directorate;
- (j) a member of the Catholic Cultural Heritage Commission referred to in article 69 appointed by the competent local ecclesiastical authority; and
- (k) four (4) other persons appointed by the Minister, three (3) from amongst persons working in the field of cultural heritage and in non-Governmental organisations dedicated to cultural heritage, and another person active in the commercial sector.

(2) The Chairperson of the Council and the members referred to in sub-article (1) shall be appointed for a period of three (3) years and may be reappointed for further periods of three (3) years each.

(3) The Council shall meet at least once every two months. Its meetings shall be called by the Chairperson either on his own initiative or at the request of any three (3) of the other members.

(4) Five (5) members shall form a quorum and decisions shall be adopted by a simple majority of all the members of the Council. The Chairperson shall have an initial vote and, in the event of an equality of votes, a casting vote.

(5) Subject to the provisions of this Act and to such procedures as may be prescribed, the Council shall regulate its own proceedings.

Functions of the
Council.

- (6) The Council shall:
- (a) without prejudice to the provisions of this Act, co-ordinate the entities established under articles 7 and 8;
 - (b) ensure and facilitate the collaboration between the different agencies with direct or indirect responsibility for the protection and management of the cultural heritage sector;
 - (c) advise the Government on the National Strategy for Cultural Heritage and subsequently oversee and monitor the implementation of the strategy as adopted by Government and as directed by the Minister;
 - (d) draw the attention of the Government or of any organisation or person to any urgent action that may be required in the field of cultural heritage;
 - (e) meet regularly and consult, at least, every four (4) months, with non-governmental organisations working in the field of cultural heritage and with persons operating in the commercial sector; and
 - (f) advise the Minister on any matter arising from the provisions of this Act and on any other matter referred to it by the Minister.

(7) Any member who has a direct or indirect interest in any contract or other action made or proposed to be made by the Council shall disclose the nature of his interest at the first meeting of the Council after the relevant facts have come to his knowledge. Such disclosure shall be recorded in the minutes of the meeting, and such member shall withdraw from any meeting while such matter is discussed or decided by the Council.

Cultural Heritage
Fund.
*Renumbered:
XIX.2019.12.*

13. (1) There shall be a Fund to be known as the Cultural Heritage Fund, which shall be a body corporate with a separate legal personality, and which shall receive and manage all monies paid to it under the provisions of this Act or under any other Act, as well as other monies or other movable or immovable properties which may be donated to it by non-governmental sources.

(2) The Fund shall be administered by the Council.

(3) The monies in the Fund may be used solely for the purpose of research, conservation or restoration of the cultural heritage.

(4) A yearly account of the administration of the Fund shall be submitted to the Minister and laid by him on the Table of the House.

National Forum.
*Renumbered:
XIX.2019.13.*

14. (1) The Minister shall, once a year convene a National Forum for Cultural Heritage inviting the participation therein of the Superintendence, the Agency, the Council, the Catholic Cultural Heritage Commission, the Religious Cultural Heritage Commissions, if any, other Government departments and entities, the Mayors of each Local Council or their representative, non-Governmental organizations registered with the Superintendence as organizations aiming at the protection of the cultural heritage, the

University of Malta, other educational institutions, specialists, consultants, representatives of the commercial sector, and any other parties registering their interest in writing with the Minister.

(2) The President of the Forum shall be appointed by the Minister.

(3) The Forum shall discuss the state of cultural heritage in general after hearing a report thereon prepared by the Superintendent.

(4) The Minister shall regulate the proceedings of the Forum.

(5) The proceedings of the Forum shall be published and transmitted to the Minister and to the Council.

(6) The Minister shall give advanced public notice a month before the meeting of the Forum.

PART IV

ADMINISTRATIVE AND PERSONNEL PROVISIONS

15. (1) Subject to the provisions of the [Constitution](#) and of any other law including this Act applicable thereto, the appointment of officers and other employees of Entities shall be made by Superintendent in the case of the Superintendence, by the Chairperson of the Board of Directors in the case of the Agency, and by the Chairperson of the Council in the case of Council or the Fund. The terms and conditions of employment shall be determined by each Entity with the approval of the Minister.

Staff appointments.
*Renumbered/
Amended by:
XIX.2019.14.*

(2) Each Entity shall appoint and employ, at such remuneration and upon such terms and conditions as it may in accordance with sub-article (1) determine, such officers and employees as may from time to time be necessary for the due and efficient discharge of its functions.

Appointments and
functions of
officers and
employees.

16. (1) The Prime Minister may, at the request of an Entity, from time to time direct that any public officer shall be detailed for duty with the entity in such capacity and with effect from such date as may be specified in the direction.

Detailing of public
officers.
*Renumbered:
XIX.2019.15.*

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, be such as may be specified in the direction, unless the direction is revoked earlier by the Prime Minister.

(3) Where any officer is detailed for duty with any Entity in accordance with this article, such officer shall during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Entity but shall for other intents and purposes remain and be considered and treated as a public officer.

Status of public
officers.

(4) Without prejudice to the generality of the foregoing, a public officer detailed for duty as aforesaid -

(a) shall not during the time while such officer is so

detailed -

- (i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by that public officer at a date on which he was detailed for duty; or
- (ii) be so employed that the remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by that public officer at the date he was detailed for duty as aforesaid or which would have become attached to such appointment, during the said period, has such officer not been detailed for duty with the Entity; and

Cap. 93.
Cap. 58.

- (b) shall be entitled to have the service with the Entity considered as service with the Government for the purpose of any pension, gratuity or benefit under the [Pensions Ordinance](#), and the [Widows' and Orphans' Pension Act](#), and of any other right or privilege to which that public officer would be entitled, and shall be liable to any liability to which he would be liable, but for the fact that he is detailed for duty with the Entity.

(5) Where an application is made as provided in sub-article (4)(a)(i), the same consideration shall be given thereto as if the applicant had not been detailed for duty with the Entity.

(6) Each Entity shall pay to the Government, where applicable, such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with such entities as aforesaid during the period in which such officer is so detailed.

Offers of
permanent
employment to
public officers
detailed for duty
with the Entities.
*Renumbered/
Amended by:
XIX.2019.16.*

17. (1) Each Entity may, with the approval of the Prime Minister, offer to any officer detailed for duty with such entities under any of the provisions of article 16 permanent employment with it at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with an Entity, under the provisions of sub-article (1), shall for all purposes other than those of the [Pensions Ordinance](#), and of the [Widows' and Orphans' Pensions Act](#), be deemed to have ceased to be in service with the Government and to have entered into service with the

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Entity on the date of such acceptance and for the purposes of the said Ordinance and of the said Act, so far as applicable to that officer, service with such Entity shall be deemed to be service with the Government within the meanings thereof respectively.

(4) Every such officer as aforesaid who immediately before accepting permanent employment with an Entity was entitled to benefit under the [Widows' and Orphans' Pensions Act](#), shall continue to be so entitled to benefit thereunder to all intents as if service with the entities were service with the Government.

(5) Each Entity shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with it as aforesaid during the period commencing on the date of such officer's acceptance.

- (6) (a) For the purposes of this article the posts and salary grades with Entities shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government of Malta by reference to job description, skills, responsibilities and other analogous factors.
- (b) The classification referred to in paragraph (a) shall be carried out by a board composed of a chairperson appointed by the Minister responsible for finance and two other members, one appointed by the Ministry responsible centrally for personnel policies in the public service and one appointed by the relevant Entity. The classification shall be subject to the final approval of the Minister responsible for finance.
- (c) Such classification shall take place within three months of any adjustment of salaries of employees in the Government service, and, or, of employees of an Entity.
- (d) No post shall be classified in a grade higher than that of grade 3 in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.
- (e) Without prejudice to the provisions of article 113 of the [Constitution](#), no person may, following a classification as aforesaid, be entitled to rights under the said [Pensions Ordinance](#) less favourable than those to which that person would have been entitled prior to such classification.

PART V

FINANCIAL PROVISIONS

Entities to meet
expenditure out of
revenue.
*Renumbered/
Amended by:
XIX.2019.17*

18. (1) Without prejudice to the following provisions of this article, Entities shall so conduct their affairs that the expenditure required for the proper performance of their functions shall, as far as practicable, be met out of their revenue.

(2) For such purpose each Entity shall levy such fees, rates and other payments prescribed or deemed to be prescribed by or under this Act or any other law.

(3) Each Entity shall also be paid by Government out of the Consolidated Fund such sums as the House may from time to time authorise to be appropriated to meet the costs of specified works to be continued or otherwise carried out by it, being works of infrastructure or a similar capital nature, or to meet any of its expenditure which it cannot meet out of its revenue.

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance, may from time to time give, be applied by each Entity to the formation of reserve funds to be used for its purposes, and without prejudice to the generality of the powers given to the Minister by this sub-article, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, rates and other payments levied in accordance with sub-article (2) or any such excess as aforesaid.

(5) Any funds of an Entity not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

Power to borrow
capital.
*Amended by:
L.N. 426 of 2007.
Renumbered/
Amended by:
XIX.2019.18.*

19. (1) For the purposes of any requirements of a capital nature, an Entity may, with the approval in writing of the Minister in consultation with the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

(2) An Entity may also from time to time borrow, by way of overdraft or otherwise, such sums as it may require for carrying out its functions under this Act:

Provided that for any amount in excess of two hundred and fifty thousand euro (250,000), there shall be required the approval of the Minister in writing.

Advances from
Government.
*Renumbered:
XIX.2019.19.*

20. The Minister responsible for finance may, after consultation with the Minister, make advances to an Entity of such sums as the Minister responsible for finance may agree to be required by such entity for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as the Minister responsible for finance may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the

Consolidated Fund, and without further appropriation other than this Act, by warrant, authorising the Accountant General to make such advance.

21. (1) The Minister responsible for finance may, for any requirements of a capital nature of an Entity, contract or raise money, or incur liabilities, for such periods and on such terms and conditions as the Minister responsible for finance may deem appropriate; and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

Borrowing from
Government.
Renumbered:
XIX.2019.19.

(2) Notice of any loans, liabilities or advances made or incurred under the provisions of sub-article (1) shall be given by the Minister to the House as soon as practicable.

(3) Pending the raising of any such loan as is mentioned in sub-article (1), or for the purpose of providing an Entity with working capital, the Minister responsible for finance may, by warrant, and without further appropriation other than this Act, authorise the Accountant General to make advances to it out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to an Entity and any other moneys to be advanced to an Entity under this article, shall be paid into the Fund.

(5) Sums received by the Accountant General from an Entity in respect of advances made to it under sub-article (3) shall be paid, as respects of amounts received by way of repayment into the Treasury Clearance Fund and, as respects of amounts received by way of interest into the Consolidated Fund.

22. (1) Each Entity shall cause to be prepared in every financial year, and shall not later than eight weeks before the end of each financial year adopt, estimates of its income and expenditure for the next following financial year:

Estimates of the
Entities.
Renumbered:
XIX.2019.19.

Provided that the estimates of an Entity for its first financial year shall be prepared and adopted within such time as the Minister may by notice in writing specify to the Entity.

(2) In the preparation of such estimates an Entity shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or an appropriation Act or of any other law; and it shall so prepare the said estimates as to ensure that its total revenues are at least sufficient to meet all sums properly chargeable to its revenue account including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made in such forms and shall contain such information and such comparisons with previous estimates as the Minister may direct.

(4) A copy of the estimates shall, upon their adoption by an Entity, be sent forthwith by the Entity to the Minister and to the Minister responsible for finance.

(5) The Minister shall, at the earliest opportunity and not later than six weeks after he has received a copy of the estimates of the Entities, or, if at any time the House is not in session, within six weeks from the beginning of the next following session, cause such estimates to be laid before the House together with a motion that the House approves the said estimates. Not more than one sitting shall be allotted for the debate in the House on such motion and both the motion and the approval of the estimates by the House may be with or without amendment to the estimates.

Expenditure according to the approved estimates.
*Renumbered/
Amended by:
XIX.2019.20.*

23. (1) No expenditure shall be made or incurred by an Entity unless it has been approved by the House as provided in article 22.

(2) Notwithstanding the provisions of sub-article (1) -

- (a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year by the House, whichever is the earlier date, an Entity may make or incur expenditure for carrying out its functions under this Act not exceeding in the aggregate one-half of the amount approved for the preceding financial year;
- (b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister, be incurred in respect of another head or sub-head of the estimates;
- (c) in respect of the first financial year, an Entity may make or incur expenditure until the approval of the estimates for that year by the House not exceeding in the aggregate such amounts as the Minister responsible for finance may, after consultation with the Minister, allow;
- (d) if in respect of any financial year it is found that the amount approved by the House is not sufficient, or if a need has arisen for expenditure for a purpose not provided for in the estimates, an Entity may adopt supplementary estimates for approval by the House and pending such approval, such Entity may in special circumstances and with the approval of the Minister, incur the relative expenditure or part thereof as the said Minister may so approve, and in any such case the provisions of this Act applicable to the estimates shall, as near as practicable, apply to the supplementary estimates.

Publication of approved estimates.
*Renumbered:
XIX.2019.21.*

24. All estimates and supplementary estimates approved by the House shall, as soon as practicable, be published in the Gazette.

Accounts and audit.
*Renumbered/
Amended by:
XIX.2019.22.*

25. (1) Each Entity shall cause to be kept proper books of account and other records in respect of its operations and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of each Entity shall be audited by an auditor

or auditors to be appointed by it and approved by the Minister:

Provided that the Minister responsible for finance may require the books and other records of an Entity to be audited or examined by the Auditor General who shall for this purpose have power to carry out such physical checking and other verification, and may require such information, as the Auditor General may deem necessary.

(3) After the end of each financial year, at the same time as a copy of the estimates of an Entity is forwarded to the Minister under article 22, the Entity shall cause a copy of the statement of accounts duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditor or auditors on that statement or on the accounts of the Entity.

(4) The Minister shall cause a copy of every such statement and report to be laid before the House together with the motion laid before the House under article 22(5).

26. (1) All moneys of an Entity shall be paid into a bank or banks appointed as bankers by it. Such moneys shall, as far as practicable, be paid into the banks from day to day, except for such sum as the Entity may require to retain to meet petty disbursements and immediate payments.

Deposit of
revenues and
payment by the
entities.
*Renumbered:
XIX.2019.23.*

(2) All payments out of the funds of each entity, except petty disbursements not exceeding such sum as may be fixed by the respective Entity with the approval of the Minister, shall be made by such officer or officers of that entity as shall be appointed or designated for the purpose.

(3) Cheques against and withdrawals from any bank account of an Entity shall be signed by such officer of that Entity as may be appointed or designated by that Entity for that purpose and shall be countersigned by the authorised member or officer of that Entity as may be authorised by that Entity for that purpose.

(4) Each Entity shall also make provision with respect to -

- (a) the manner in which and the officer or officers by whom payments are to be authorised or approved;
- (b) the title of any account held with the bank or banks into which its monies are to be paid, and the transfer of funds from one account into another;
- (c) the method to be adopted in making payments out of its fund; and
- (d) generally with respect to any matter which is relevant to the proper keeping and control of the accounts, books and other records and the control of its finances.

27. Each Entity shall abide by the public procurement regulations.

Contracts of supply
and of works.
*Amended by:
L.N. 426 of 2007.
Substituted by:
XIX.2019.24.*

Annual report.
Substituted by:
XIX.2019.28.

28. Each Entity shall, not later than eight weeks after the end of each financial year, make and transmit to the Minister and to the Minister responsible for finance a report dealing generally with its activities during that financial year and containing such information relating to its proceedings and policy as either of the said Ministers may from time to time require. The Minister shall cause a copy of every such report to be laid on the Table of the House together with the estimates as provided for in article 22.

PART VI

CONSERVATION PROFESSIONALS

Qualifications for
warrant.
Substituted by:
XIX.2019.26.

29. (1) No person shall exercise the profession of conservator-restorer unless he is the holder of a warrant under article 31.

- (2) A person shall not qualify for the award of warrant unless –
- (a) he is a citizen of Malta, or of another Member State of the European Union, or of a country in the European Economic Area, or is otherwise permitted to work in Malta under any law;
 - (b) he is of good conduct and repute;
 - (c) he is of full legal capacity; and
 - (d) he satisfies the Board that –

(i) he is in possession of academic qualifications obtained after successful completion of studies at tertiary level, of a duration, in aggregate, of at least five years full-time, or equivalent part-time duration, including a degree course of at least two years full-time duration in conservation-restoration at Malta Qualification Framework Level 7 or equivalent as offered by such university or academic institution as may be recognised by the Board established in article 35:

Provided that the qualification of a Bachelor in Conservation and Restoration Studies (Honours) by the University of Malta between the years 2003 and 2014 shall be considered, for the purposes of this Part of the Act, as satisfying the requirement for qualifications in terms of this sub-paragraph:

Provided further that in the case of individuals trained in conservation-restoration in other countries wherein the training offered does not lead to the level of academic qualifications referred to in this sub-paragraph, the individual concerned must present

this information, together with all evidence of any conservation-restoration training or apprenticeships undertaken by the individual to the Board, and it shall be within the discretion of the Board to assess whether the individual has reached an adequate level of training in conservation-restoration; and

(ii) for a period of not less than two years after obtaining the academic qualifications referred to in sub-paragraph (i), he has carried out conservation-restoration practice under the supervision of a warranted Conservator-Restorer, in accordance with the guidelines issued by the Board, or with any such body recognised by the Board for such purpose:

Provided that for the first five years following the coming into force of this Part of the Act, the conservation-restoration practice may be carried out under the supervision of a person or persons who in the opinion of the Board have academic preparation as defined in article 29(2)(d)(i) and have previously practised in conservation-restoration for at least five years; and

(iii) he has been duly assessed by the Board in an appraisal for the purpose after submitting evidence of academic training and a portfolio of his work to the Board, as the Board may establish in its own procedures:

Provided that where the duration of the course of study leading to academic qualifications is less than the duration stipulated in sub-paragraph (i), or when the conservation-restoration practice is less than the requirement of two years as provided in sub-paragraph (ii), where the applicant is a national of another Member State of the European Union or of the European Economic Area, the Board may require him to undertake an adaptation period or an aptitude test in conformity with the provisions of the [Mutual Recognition of Qualifications Act](#):

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Provided further that where the academic qualifications referred to in sub-paragraph (i) are obtained after full-time academic courses in conservation-restoration of a duration in the aggregate of at least seven years, up to a European Qualifications Framework level 7 or above and which contain such level of practical training as may be approved by the Board, the condition for supervised training may be deemed to have been fulfilled.

30. Notwithstanding the provisions of article 29, a person may be granted a warrant if he:

Special
circumstances.
Substituted by:
XIX.2019.27.

- (a) possesses the requirements listed in article 29(2)(a), (b) and (c); and
- (b) has, prior to the coming into force of these amendments, practiced as a Conservator-Restorer in Malta or in another Member State of the European Union or of the European Economic Area for a period of not less than twenty years; and
- (c) satisfies the Board that he is of the required competence and academic ability, based on an examination of the portfolio, together with an interview and a presentation of any academic or professional qualifications.

Granting of
warrant to practice
the profession of
Conservator-
Restorer.
Amended by:
XXIII. 2009.126.
Substituted by:
XIX.2019.28.
Amended by:
XXI of 2020.

31. (1) The warrant to practice the profession of Conservator-Restorer shall be granted by the Board and shall be signed by the Chairperson of the Board, to any person who satisfies the requirements of articles 29 and 30. A decision shall be taken within six months:

Provided that the Board may, for justified reasons, extend the six months period by notice in writing informing the applicant of such an extension.

(2) A warrant holder may use the designation Conservator-Restorer with his name.

(3) A person holding a warrant issued in accordance with this article shall, in addition, hold one or more certificates issued by the Board (hereinafter in this Act referred to as "a practising certificate") to practise in named fields of Conservation-Restoration as may be prescribed by the Minister, and shall not practice in such fields unless he holds the relative practising certificate.

(4) Every warrant holder shall perform a minimum of twenty (20) hours of continued professional development per year:

Provided that if the warrant holder does not perform the number of hours established, the Board shall suspend the warrant until such time as the person shows to the satisfaction of the Board that the requirement of continued professional development has been met.

32. (1) The Board shall recognise the registers, lists and directories kept by other warranting boards which grant warrants to persons that work with Conservator-Restorers. Persons listed in such registers, lists and directories shall be referred to as "listed persons".

(2) The Board may register a person as having one or more Heritage Skills:

Provided that the Board is satisfied that the person who applies to be so registered is suitably trained or experienced and is eligible to qualify and be registered as having a Heritage Skill in accordance with the provisions of this Act.

Other persons
working with
Conservator-
Restorers.
Added by:
XVIII. 2002.10.
Substituted by:
XXIII. 2009.127.
Amended by:
XXXIV. 2016.10.
Substituted by:
XIX.2019.29;
XLI.2021.11.

(3) Persons registered as having a Heritage Skill shall not carry out conservation-restoration work on cultural heritage outside their field of expertise:

Provided that persons registered as having a Heritage Skill must only practise under the supervision of a warranted Conservator-Restorer when working on cultural heritage:

Provided further that listed persons and persons registered as having a Heritage Skill but not holding a warrant of a Conservator-Restorer shall not be deemed to practise the profession of Conservator-Restorer and shall not be considered a warranted Conservator-Restorer.

(4) The provisions of this article shall not affect contracts, projects and works that have commenced before the coming into force of the Cultural Heritage (Amendment) Act, 2021.

Act No. XLI of 2021.

33. (1) Without prejudice to the [Mutual Recognition of Qualifications Act](#) and notwithstanding the provisions of article 29 and 30, any person established in another Member State may practise the profession of a Conservator-Restorer in Malta on a temporary and occasional basis provided that such person:

Temporary warrant.
Cap. 451.
Added by:
XIX.2019.30.

(a) is legally established in another Member State for the purpose of practising the profession of Conservator-Restorer in that Member State; and

(b) has pursued the profession of Conservator-Restorer for at least one year during the ten years immediately preceding the provision of services where the profession of Conservator-Restorer is not regulated in that Member State.

(2) Persons referred to in sub-article (1) shall inform the Board by means of a written declaration to be made in advance, which declaration shall include the following:

- (a) details of an insurance cover or other means of personal or collective protection relative to professional liability. This declaration shall be made once a year if the service provider intends to provide temporary or occasional services during the year;
- (b) proof of the nationality of the service provider;
- (c) an attestation certifying that the Conservator-Restorer is legally established in a Member State for the purpose of pursuing the activities concerned and that he is not prohibited from practising the profession of a Conservator-Restorer even temporarily, at the moment of delivering the attestations;
- (d) evidence of professional qualifications; and
- (e) where applicable, any means of proof that the

Conservator-Restorer has practised the profession of Conservator-Restorer for at least one year during the previous ten years immediately preceding the provision of services.

Cap. 451.

(3) Without prejudice to the [Mutual Recognition of Qualifications Act](#) and notwithstanding the provisions of article 29, the person applying for a temporary warrant shall be required to submit a declaration in accordance with sub-article (2) and the Board shall determine whether that person shall be given access to the profession of a Conservator-Restorer or to exercise that activity in the entire territory of Malta.

(4) The Board shall determine the temporary nature and occasional nature of the practice of the conservation-restoration services on a case by case basis:

Provided that in all cases, the Board shall establish the duration of the temporary provision of the service.

(5) A person practising as Conservator-Restorer under this article shall be deemed to be a temporary warrant holder and the provisions of this Act and of any other applicable law shall apply to him in the same manner and to the same extent as with any other warrant holder.

Third country
nationals.
Added by:
XIX.2019.30.

34. (1) Third country nationals legally established in Malta wishing to practise as a Conservator-Restorer or to practise a Heritage Skill shall apply to the Board and shall be duly assessed by the Board.

(2) The Board shall use the criteria established in article 29 to assess the individual so applying under this article, which shall include giving the individual the opportunity to show, in particular by means of an aptitude test, that he possesses the necessary knowledge or competence.

(3) A person applying under this article may be granted a temporary or permanent warrant as Conservator-Restorer or registration as a person having a Heritage Skill, as the case may be, and as the Board shall deem fit after having assessed the person's application.

*Bord tal-Warrant
tar-Restawraturi.*
Substituted by:
XIX.2019.31.

35. (1) There shall be a Board, to be known as the *Bord tal-Warrant tar-Restawraturi* which shall consist of:

- (a) one person to be appointed from among persons who are or have been qualified to be appointed judges in Malta;
- (b) three members appointed from among persons who in the opinion of the Minister have the necessary knowledge and experience and of whom one shall be from among the resident academic staff of the University of Malta and another shall be from among

academic staff of the Malta College of Arts Science and Technology;

(c) the Superintendent or his representative *ex officio*; and

(d) two practising warranted Conservator-Restorers not being temporary warrant holders:

Provided that for the first year from the coming into force of these amendments, the Board shall be composed of the persons indicated in paragraphs (a), (b) and (c), while paragraph (d) shall come into force one year after the coming into force of this provision from which date the Board shall be composed of the persons indicated in paragraphs (a) to (d):

Provided further that the Minister shall appoint one person from those listed in paragraphs (a) and (b) as Chairperson of the Board.

(2) The Chairperson and members of the Board shall be appointed by the Minister and shall hold office for such term, not exceeding three years, and under such conditions as may be set out in the letter of appointment:

Provided that on the expiration of the term for which a person is appointed under this sub-article, the Chairperson and the members may be reappointed for a further term.

(3) Save as aforesaid, the Board may make its own rules and shall regulate its own procedures.

(4) In carrying its functions, the Board shall utilize the funds that may be allocated to the Board from time to time by the Minister for Finance.

(5) Where any vacancy in the Board occurs, the Minister shall as soon as practicable, appoint another person to fill the vacancy. If the vacancy arises in the post of Chairperson, the Minister may appoint any other member of the Board from those listed in paragraphs (a) and (b) above to fill the position of Chairperson.

(6) The number of members necessary to form a quorum shall be three, but, subject to the presence of a quorum, the Board may act notwithstanding any vacancy amongst its members.

(7) The Minister may also delegate a public officer to act as secretary to the Board, and such secretary shall not have a vote.

36. (1) Written and signed complaints against warrant holders, practising certificate holders and persons having a Heritage Skill on breaches of the code of ethics, shall be submitted to the Board.

(2) In exercising its functions under this article, the Board shall

Complaints on ethical issues.
Added by:
XIX.2019.32.
Amended by:
XXI of 2020.

regulate its own procedure.

(3) The Board shall investigate the complaint *in camera* and the proceedings shall be considered as confidential.

(4) If the Board concludes that the warrant holder, practising certificate holder or the person registered as having a Heritage Skill has breached the code of ethics, the Board may issue a warning to the warrant holder, practising certificate holder or the person having a Heritage Skill or order the suspension, cancellation or revocation of the warrant, practising certificate or registration as the case may be:

Provided that the decision of the Board shall be notified only to the warrant holder, practising certificate holder or the person registered having a Heritage Skill.

(5) Appeals against a finding of the Board in terms of this article shall be lodged before the Conservation-Restoration (Appeals) Board set up in terms of article 37 within twenty days from the notification of the decision of the Board.

(6) Where a warrant, practising certificate or registration has been suspended for more than one year, the suspension may be lifted by the Board at any time after the expiration of one year if it is shown to the satisfaction of the Board that there has been a change in circumstances which justifies such lifting.

Establishment of
Conservation-
Restoration
(Appeals) Board.
Added by:
XIX.2019.32.

37. (1) The Conservation-Restoration (Appeals) Board shall consist of a chairperson and three other members that shall be appointed by the Minister from amongst persons of known integrity, competence and experience:

Provided that at least one of the members of the Board shall be a person who has practised as an advocate in Malta for a period or periods amounting, in the aggregate, to not less than twelve years.

(2) The members of the Conservation-Restoration (Appeals) Board shall hold office for a period of three years, and shall be eligible for reappointment.

(3) The Minister may also appoint a substitute chairperson and substitute members of the Conservation-Restoration (Appeals) Board to sit on the said Board whenever the chairperson or members or any one of them is for some valid reason unable temporarily to attend and participate in the sittings of the said Board:

Provided that, as far as practicable, the same chairperson and the same members shall hear and conclude the same case.

(4) A member of the Conservation-Restoration (Appeals) Board may only be removed from office by the Minister on the grounds of gross negligence, incompetence, or acts, omissions or conduct

unbecoming a member of the Conservation-Restoration (Appeals) Board.

(5) The Conservation-Restoration (Appeals) Board shall have power to hear and determine appeals on both facts and points of law against a decision or recommendation of the Board made in accordance with article 36.

(6) The sittings of the Conservation-Restoration (Appeals) Board shall be held *in camera*.

(7) In the exercise of its function the Conservation-Restoration (Appeals) Board shall have all the powers as are assigned to the First Hall of the Civil Code by the [Code of Organization and Civil Procedure](#).

Cap. 12.

(8) Three members of the Conservation-Restoration (Appeals) Board shall constitute a quorum in its meetings.

(9) The decisions of the Conservation-Restoration (Appeals) Board shall be final.

38. (1) A decision of the Board under articles 31, 32, 33, 34 and 40(1) shall be subject to appeal before the Court of Appeal constituted as provided in article 41 of the [Code of Organization and Civil Procedure](#).

Appeals from decisions of the Board.

Added by:
XIX.2019.32.
Cap. 12.

(2) The appeal shall be filed within twenty days from the notification of the decision of the Board to the applicant or warrant holder, practising certificate holder or person registered as having a Heritage Skill.

(3) The Minister responsible for justice may make regulations prescribing the fees that shall be payable in the registry of the courts in connection with appeals under this article:

Provided that until such time as fees are so prescribed by the Minister responsible for justice, the fees payable with respect to appeals to that Court shall be the fees applicable to the Court of Magistrates (Malta).

39. (1) The functions of the Board are to –

- (a) consider applications for the issue of a warrant under this Part, and take decisions thereon;
- (b) to organise, regulate and determine requests made under special circumstances in accordance with article 30 and under other circumstances in accordance with articles 33 and 34;
- (c) keep a list of universities and academic institutions and degree programmes for the purposes of article 29;
- (d) review the academic qualifications and assess the practical training undertaken by an individual who has

Functions of the Board.

Substituted by:
XIX.2019.33.
Amended by:
XXI of 2020.

trained in a foreign jurisdiction in accordance with the provisions of article 29(2)(d)(i);

- (e) establish the minimum core subjects in the field of conservation-restoration which an applicant for a warrant must be knowledgeable in;
- (f) organise and regulate the appropriate aptitude tests and adaptation periods as provided in this Act;
- (g) consider and determine applications for new practising certificates in terms of article 31(3) and for the registration of persons having a Heritage Skill in terms of article 32;
- (h) draw up a code of ethics and guidelines of practice for warrant holders and persons registered as having Heritage Skills;
- (i) draw up guidelines to be used by the Board in determining cases arising in terms of article 40;
- (j) determine cases of professional misconduct and other disciplinary proceedings in respect of individuals holding warrants and practising certificates, temporary warrants, persons registered as having a Heritage Skill, including cases leading to the suspension or withdrawal of any warrant, or holders of a practising certificate or registration of a Heritage Skill issued under this Act;
- (k) draw up guidelines establishing the manner in which persons having a Heritage Skill shall be assessed and registered as such;
- (l) assess professional associations for recognition in terms of article 42;
- (m) establish the criteria for the acceptance of programmes of continued professional training and development for warrant holders and holders of practising certificates; and
- (n) advise the Minister in connection with any matter relating to the profession of Conservators-Restorers and to Heritage Skills.

(2) In the exercise of its functions the Board may consult with such persons as it may deem appropriate and may also appoint committees or experts, of which the Chairperson of the Board or his delegate shall be the Chairperson of such committee, for the carrying out of such duties or other work as the Board may assign to them.

(3) The Board shall keep a register of warrant holders, indicating with respect to each person registered therein the work for which they hold a practising certificate or certificates, and shall, not later than three months after the end of each year, publish in the Gazette a list of persons who, on the 31st December of the said year, were registered as holders of a warrant issued under this Act, and what practising certificates they hold.

(4) The Board shall keep a register of persons having a Heritage Skill under this Act, indicating with respect to each person registered therein the work, intervention or procedure for which such person is registered, and shall not later than three months after the end of each year, publish in the Gazette a list of persons who, on the 31st December of the said year, were so registered, indicating with respect to each person the work, intervention or procedure for which he is registered.

(5) The Board shall keep a register of persons holding temporary warrants and registered to practise a Heritage Skill and shall not later than three months after the end of each year, publish in the Government Gazette a list of persons who, on the 31st December of the said year, were so registered.

40. (1) The Board may, by order in writing, suspend, revoke or cancel a warrant, practising certificate, or registration, as applicable, if the person:

Suspension or revocation of warrants and practising certificates and registrations of Heritage Skills.
Substituted by: XIX.2019.34.
Amended by: XXI of 2020.

- (a) has, following an enquiry by the Board, been found guilty, of any of the following acts or omissions:
 - (i) dishonesty, serious misconduct or gross negligence in the exercise of his profession;
 - (ii) acted in violation of any provision of this Act, regulation or directive issued in accordance with this Act;
 - (iii) failure to comply with regulations or directives with respect to professional standards, practices or integrity;
 - (iv) conduct that goes against the code of ethics and guidelines for practice in terms of this Act;
 - (v) failure to comply with any condition attached to a warrant, or practising certificate, or registration issued under this Act;
 - (vi) grievous conduct discreditable to the profession;
 - (vii) obtaining a warrant or practising certificate or registration in a deceitful or fraudulent manner;
 - (viii) the existence of material circumstances which, if the warrant or practising certificate had not been issued, would disqualify such person from obtaining a warrant or practising certificate; or
- (b) has been found guilty by a court of law:
 - (i) of an offence under the provisions of this Act or any regulations made thereunder; or
 - (ii) of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud or, as the case may be, of a crime punishable by a term of imprisonment exceeding one year.

(2) Without prejudice to the provisions of sub-article (1):

- (a) a warrant may be surrendered to the Board by the warrant holder;
- (b) a practising certificate may be surrendered to the Board by the practising certificate holder;
- (c) a registration as a person having a Heritage Skill may be surrendered to the Board by the person so registered.

Effects of revocation, cancellation or suspension of a warrant, practising certificate or registration of Heritage Skills.
Substituted by: XIX.2019.35.

41. (1) Where a warrant and, or practising certificate or registration under this Act is revoked or cancelled, the person concerned shall cease to be a holder of such warrant and, or any practising certificate, or registration.

(2) If the warrant and, or practising certificate or registration is suspended, the holder or registered person shall cease to exercise the profession and, or provide the skill during the period of suspension.

Recognition of approved bodies.
Substituted by: XIX.2019.36.
Amended by: XXI of 2020.

42. (1) The Board may recognise any local professional association of Conservators-Restorers as an approved body for the purposes of this Act if the Board is satisfied, among such other matters as may be prescribed, that the educational and professional qualifications demanded by such association for membership conform to those established under this Act and that such membership is open to all persons having such qualifications.

(2) Such recognition shall be subject to any such conditions as the Board may, in granting recognition, impose or as may be prescribed from time to time and if at any time any one (1) of the conditions as aforesaid, or any one (1) of the provisions as contained therein or as prescribed, is not observed or fulfilled, or there is a material change in the circumstances under which the recognition was granted, the Board may suspend or withdraw the recognition.

(3) The approved body shall keep a register of its members and shall enter therein the names of all persons who qualify for such membership. The said register shall be kept in such manner as may be prescribed.

Regulation of restoration services and performance.
Renumbered/ Amended by: XIX.2019.37.
Substituted by: XLI.2021.12.

43. It shall be the power of the Minister to prescribe such rules and regulations as may be necessary to further regulate performance of such work, services, acts or functions as referred to in this Part.

PART VII

Underwater Cultural Heritage

Declaration of Underwater Cultural Heritage.
Added by: XIX.2019.38.
Amended by: XLI.2021.13.

44. (1) The Superintendent may, by a notice in the Gazette, declare remains found on the seabed that are situated in the territorial waters of Malta and are at least fifty years old as Underwater Cultural Heritage.

(2) Whenever the Superintendent is of the opinion that the remains that are situated in the territorial waters are of cultural and historic significance, the Superintendent may, by notice in the Gazette, declare those remains to be a historic shipwreck, aircraft and, or an

underwater archaeological site.

(3) Where the Superintendent is of the opinion that a particular object associated with a ship, aircraft or archaeological site situated in the territorial waters is of historic significance, the Superintendent may, by notice published in the Gazette, declare the object to be a historic object.

(4) The Superintendent may make a declaration under sub-articles (2) and (3) in relation to any part of the remains of a ship, aircraft or underwater archaeological site, or in relation to any object situated in or that has been removed from the territorial waters.

(5) When a declaration has been made in accordance with this article in relation to the remains of a ship, aircraft or any other underwater archaeological site or an object situated in the territorial waters and after such declaration is issued, any part of those remains or that object is removed from the territorial waters, the declaration will continue to apply, subject to any amendment or revocation of the declaration, in relation to that part of those remains or in relation to that object notwithstanding its removal from those waters.

45. For the purpose of this Act, the Superintendent may, by notice published in the Gazette, declare an area of sea or partly of sea and partly of land within which Underwater Cultural Heritage is situated to be a protected zone.

Protected zones.
Added by:
XIX.2019.38.

46. (1) The Superintendent may, in relation to a person who has possession, custody or control of an object being or forming part of, a historic shipwreck, an underwater archaeological site or being a historic object, for the purpose of:

Custody of
Underwater
Cultural Heritage.
Added by:
XIX.2019.38.
Amended by:
XLI.2021.14.

- (a) the preservation of the object;
- (b) the placement of the object with a collection of articles that has been or is yet to be established; or
- (c) the exhibition thereof, or the provision of access to the object, whether or not the object forms part of a collection of objects,

by notice in writing require the person to take such action in relation to the object as is specified in the notice.

(2) The action that a person may be required to take in relation to an article in accordance with sub-article (1) includes but is not limited to:

- (a) keeping the object in a particular manner or place;
- (b) removing the object to a particular place within a particular time;
- (c) doing a particular act in relation to the object within a particular time, being an act designed to assist in the

preservation of the object; and

- (d) delivering the object to the Superintendence or as delegated by the Superintendent within a particular time.

Permits for exploration or recovery of shipwrecks and relics.
Added by:
XIX.2019.38.

47. (1) The Superintendent may, in his or her discretion, upon application by a person, grant a permit to that person authorizing that person and any other persons named or described in the permit to do an act or thing specified in the permit the doing of which would otherwise be prohibited by the Act.

(2) The Superintendent may impose conditions in respect of the permit and may at any time revoke or vary any conditions so imposed.

Duty to report the discovery of underwater cultural heritage.
Added by:
XIX.2019.38.
Amended by:
XLI.2021.15.

48. Any person who finds in the territorial waters of Malta any form of Underwater Cultural Heritage, shall by not later than twenty four hours from such discovery transmit to the Superintendent a notice setting out a description of the remains or of the object and a description of the place where the remains or object are situated.

PART VIII

Protection of Cultural Heritage

Protection of Cultural Heritage.
Added by:
XIX.2019.38.

49. No person shall make any intervention or alteration, damage, demolish or undertake conservation or restoration of a cultural property as defined in this Act, or classes thereof, except with the permission in writing of the Superintendent and subject to such conditions as may be imposed, and as may be defined in regulations issued under this Act.

Movable cultural property granted on loan or by allocation.
Added by:
XIX.2019.38.
Amended:
XXI of 2020.

50. (1) The Superintendent may enter into an agreement with government agencies and bodies corporate established by law, cultural non-government organisations, local councils and academic institutions, for the loan or allocation of movable cultural property in accordance with provisions and regulations prescribed under this Act, and in accordance with such conditions as may be contained in the agreement:

Provided that the loan or allocation agreement, as the case may be, shall be made for the custody, administration, care and display of the movable cultural property:

Provided further that before entering into a loan or allocation agreement, the Superintendent shall consult the Council as to the conditions that shall be included in the loan or allocation agreement.

(2) The loan or allocation agreement shall include terms and conditions, which terms and conditions shall be determined by the Superintendent on a case by case basis.

(3) The cultural property subject to the loan or allocation agreement shall remain the property of Government.

(4) The Superintendent may, after consulting the Council, revoke a loan or allocation agreement if any terms and conditions stipulated therein or any provision of this Act, or of any regulations made thereunder, are not observed.

51. The Superintendent may enter, by public deed, into an entrustment agreement with the Agency for the custody, administration, care and accessibility of immovable property in accordance with the provisions of this Act, and in accordance with such conditions as may be contained in the said agreement.

Site entrustment.
Added by:
XIX.2019.38.
Substituted by:
XLI.2021.16.

(2) The Superintendence shall inform in writing the competent Authority responsible for Government property of any such authorisation given under sub-article (1).

52. (1) No part of a public collection shall be transferred from public ownership:

Public collections management.
Added by:
XIX.2019.38.
Amended by:
XLI.2021.17.

Provided that items in the public ownership on loan or allocation shall also be covered by this provision.

(2) Department of Government, government agencies and government entities having items or collections of cultural property shall ensure the safety of such property and are to inform the Superintendent of the state of such cultural property and its location:

Provided that any movement of such items or collections has to be reported to the Superintendent up to thirty days prior to such movement:

Provided further that collections of non-government organizations will be subject to the same obligations that apply to public collections:

Provided further that in the case of the dissolution of a non-government organization the semi-public collection shall become a public collection.

(3) Public collections and their constituent items are to be listed in an inventory, which inventory is to be submitted to the Superintendent for inclusion in the national inventory. Any new acquisition of cultural property by public entities is to be reported to the Superintendent within thirty days of acquisition for inclusion in the national inventory:

Provided that the inventory shall indicate the location in which the item or collection is kept.

(4) The management and conservation of semi-public collections of cultural property shall be subject to the provisions of this Act.

(5) Such semi-public collections shall not be separated in the event of the dissolution of associations or non-government organisations.

*Substituted by:
XIX.2019.39.*

PART IX SPECIAL POWERS OF THE STATE

*National Inventory.
Substituted by:
XIX.2019.40.
Amended by:
XLI.2021.18.*

53. (1) In establishing the national inventory of cultural property, the Superintendence shall consider cultural property and underwater cultural heritage belonging to:

- (a) the State or State institutions;
- (b) the Catholic Church and other religious denominations;
- (c) foundations and non-governmental organisations as established in accordance to law;
- (d) physical and juridical persons. In the case of privately owned movable cultural property, when such cultural property has been made accessible to the public and when such persons have given their consent for such purposes; and
- (e) any other cultural property and underwater cultural heritage as defined in this Act.

(2) The Superintendent may cause inventories to be developed and updated by other persons, and a copy of such inventories shall be deposited with the Superintendent.

(3) Cultural property and underwater cultural heritage included in the national inventory shall be attributed a level of protection to adequately safeguard the cultural property and underwater cultural heritage:

Provided that the omission from the national inventory of any cultural property or underwater cultural heritage shall not be taken to imply that such omitted cultural property shall not be afforded such protection.

(4) The Superintendent shall also make use of the list of Scheduled property, as defined in the [Development Planning Act](#), for the purposes of the inventory.

Cap. 552.

*Control of
exportation and re-
exportation.
Renumbered/
XIX.2019.41;
XLI.2021.19;
XXI.2024.2.*

54. (1) No person may move, export or re-export any cultural property without the written permission of the Superintendent.

(2) Any movement, when permitted, shall be subject to the payment of an administration fee as set out in the Schedule.

(3) The export and re-export, when permitted shall be subject to the payment of the *ad valorem* fee as set out in the Schedule to this Act and shall be subject to such other conditions as may be imposed by the Superintendent.

(4) Permission for movement, export and re-export may be

granted for a limited period and without the payment of the fee referred to in sub-article (2) and (3) for the purpose of restoration, exhibition or study. The Superintendent may, in granting such permission impose guarantees for the return of the cultural property so exported or re-exported at such amount as shall be fixed by the Superintendent.

(5) The value of the objects for the purpose of the payment of the fee referred to in sub-article (3) shall be the amount declared by the exporter on proof of documents of acquisition, or if the Superintendence deems fit, the amount shall be fixed by one or more experts to be appointed by agreement between the Minister and exporter or, in default of agreement, by the First Hall of the Civil Court on the demand of the exporter, to be made by an application. The cost of the evaluation shall be borne by the exporter.

(6) In lieu of the payment of the fee in accordance with sub-article (3), the exporter may, with the consent of the Superintendent, give to the Government by way of *datio in solutum*, one or more objects of a value equivalent to the fee due.'

(7) The Government may acquire any object proposed to be exported, at such price as may be fixed in the manner laid down in this article within two months from the making of the valuation referred to in this article after notice of the intended export is given to the Superintendent. All expenses in connection with the valuation shall, in such cases, be at the charge of the Government.

(8) In the case of movement and importation of cultural property into Malta, for the purpose of a temporary exhibition, or temporary loan, or sale, the Superintendent may issue a certificate guaranteeing that Government renounces, with regard to these objects, to the right of preference and to the right to prohibit their re-exportation or movement outside Malta, for a period of ten (10) years from the date of the certificate and guarantee, which certificate and guarantee may be renewed:

Provided that in the case of persons taking up residence in Malta, or who have taken up residence in Malta, the Superintendent may issue a certificate guaranteeing that Government renounces, with regard to these objects, unless the objects are in the opinion of the Superintendent of national importance to Malta, to the right of preference and to the right to prohibit their re-exportation or movement outside Malta, for a period of ten (10) years from the date of the certificate and guarantee, which certificate and guarantee may be renewed:

Provided further that:

- (a) a written request for the said certificate shall be made prior to the importation or movement into Malta of such cultural property; and
- (b) the objects shall be examined and registered at the point of entry into Malta by the Superintendent; and

- (c) the said cultural objects shall be accompanied by evidence of provenance and title regarding the cultural property, documentation regarding the movement or exportation or importation, and shall be described graphically and in writing in the certificate and guarantee.

(9) The Superintendent is to maintain a register of such movements and imports, provided that the register is kept accessible to the Minister and the Council.

(10) The Minister shall by regulations amend the fees established in the Schedule to this Act.

Right of
preference.
Added by:
XIX.2019.42.
Amended by:
XLI.2021.20.

55. (1) In the case of sale, export, movement, exchange, emphyteutical grant or lease of an object of cultural property the Superintendent shall have the right, with the approval of the Minister of acquiring the same, in preference to all others on equal conditions including consideration as that concluded between the parties:

Provided that the right of preference shall be exercised in any of the following circumstances:

- (a) when the cultural property is of high cultural value; or
- (b) in the case of a potential physical threat to the cultural property; or
- (c) in the case of export or movement resulting in its removal from national territory; or
- (d) to guarantee the accessibility of cultural property:

Provided further that in the case of the export or movement of an object of cultural property Government shall acquire the same by title of sale.

(2) This right of preference may be exercised not later than two months from the date of the receipt of notice of such sale, export, movement, exchange, transfer or lease by any of the parties thereto, or from the date when the Superintendent shall come to know of the said sale, export, movement, exchange, transfer or lease, whichever is the earlier.

(3) In exercising the right of preference, where the consideration of the transfer cannot be otherwise established, the value of the cultural property in question there shall be followed the provisions of article 54.

Conservation and
restoration.
Added by:
XIX.2019.42.
Substituted by:
XLI.2021.21.

56. (1) The conservation and restoration of cultural property may only be carried out with the prior authorisation and conditions established by the Superintendent:

Provided that the owners or persons responsible for the proposed conservation and restoration shall notify the Superintendent beforehand:

Provided further that the Agency shall only give sufficient notice and information to the Superintendent prior to the commencement of the conservation and restoration works on public cultural property entrusted to it.

(2) Proponents shall engage warranted conservator-restorers to prepare documents, carry out and or oversee the works.

(3) Conservation and restoration work may be subject to the submission of condition reports and method statements prepared by warranted conservators-restorers or other experts approved by the Superintendence for the prior approval by the Superintendent.

(4) Such work may be subject to monitoring or periodic inspections and reporting by the Superintendent:

Provided that, following the inspection or monitoring, the Superintendent may require amended plans and method statements and may modify the conditions established in the original authorisation.

(5) The conservation and restoration of cultural property shall be subject the provisions of this Act.

57. The Superintendent may after consulting the Council by notice inform any person being the owner, holder or possessor of cultural property that such cultural property, is in urgent need of repair or restoration and shall in such notice fix a time limit in which such repair or restoration shall be effected, failing which, the Superintendent, may affect the said works at the expenses of such person:

Repair and restoration by Government.
Renumbered/Amended by: XIX.2019.43; XLI.2021.22.

Provided that the Superintendent may register a special privilege on the property for the amount of expenses due.

58. The Superintendent may commend for scheduling to the Planning Authority such sites and buildings which are considered to be scheduled as cultural property within the meaning of the [Development Planning Act](#).

Scheduling.
Cap. 552.
Added by: XIX.2019.43.

59. (1) No person shall make any development or other interventions on immovable cultural property, property listed in the national inventory or scheduled property without first having obtained a permit therefor from the Superintendent and as may be prescribed in regulations issued under this Act.

Permit for development and interventions on cultural property.
*Added by: XIX.2019.43.
Amended by: XLI.2021.23.*

(2) Before determining an application under sub-article (1) the Superintendent may require such information including the results of consultations with other entities, or individuals, tests, field investigations, examinations or inspections and other assessments on the history, composition, provenance or other aspects of the relevant cultural property as may be required by the Superintendent.

(3) In granting such a permit the Superintendent may impose

such conditions, heritage obligations or guarantee as he may consider appropriate.

(4) The Superintendent may request that the proposed development and the various phases thereof be photographed or otherwise documented or recorded, and that a report on the work be delivered to the Superintendent at such times as may be established in the permit.

(5) The Superintendent may request that the proposed development or any part thereof as may be stated in the permit be carried out under monitoring or supervision.

(6) The Superintendent may require the drawing up of amended plans or method statements.

Power of entry and
inspection.
Substituted by:
XIX.2019.45.

60. (1) Any officer of the Superintendence duly authorised in writing by the Superintendent may, with the assistance of the Executive Police, enter any area, property, site under investigation, premises or building if the Superintendent considers it necessary to do so in the discharge of any function under this Act or if he considers that there are reasonable grounds to believe that an offence against this Act or any other regulation, licence condition or conditions made thereunder has been or is about to be committed.

(2) Where entry is for the purposes of inspection or documentation, the Superintendent shall serve a written notice to the occupier of cultural property of the intended entry, and thereupon the officer authorised as aforesaid shall be given access to such cultural property where conservation, restoration or development is taking place.

(3) The Superintendent shall cause an inspection to be carried out in cases of reported discoveries of cultural property in order to establish whether preservation or excavation works are required.

(4) The Superintendent shall have the right to enter and occupy any cultural property in order to conduct archaeological excavations therein, provided that:

- (a) a written notice is served upon the occupier or owner of the cultural property in question at least three days before the commencement of such excavations;
- (b) the expected duration of the occupation is stated in the notice:

Provided that any further extension of this period shall be made with at least three days notice; and

- (c) the owners or occupier of cultural property occupied in accordance with this article shall be entitled to compensation for any loss of profit, damage sustained

during archaeological excavations or the reinstatement of excavated areas.

(5) Discoveries made during the period of occupation by the Superintendent shall be the property of the Government.

(6) For the purpose of exercising any of his rights under this article the Superintendent may request the assistance of the Police.

61. (1) Any person who, accidentally or otherwise, by any means discovers any object, site or building, or feature in a building or property or any other cultural property whether on land or sea to which this Act applies, shall immediately inform the Superintendent, keep the cultural property found *in situ* and shall not for a period of six working days, which may on reasonable ground be extended for a further period of six working days, after informing the Superintendent proceed with any work on the site where the object of cultural property is discovered.

Discovery of cultural property.
Substituted by:
XIX.2019.46.
Amended by:
XLI.2021.24.

(2) The Superintendent shall inspect the site of discovery within the said six working days and may direct the person responsible to desist from any further work on the site or any part thereof by giving him a notice to suspend works in accordance with the provisions of this Act.

(3) Before determining appropriate action in accordance with this Act, the Superintendent may carry out investigations, including consultations with other entities or individuals, tests, excavations and site evaluations as prescribed in article 7, examinations or inspections and other assessments on the history, composition, provenance or other aspects of the relevant cultural property as may be required.

(4) Government shall have the right to acquire immovable cultural property so discovered in accordance with the [Government Lands Act](#):

Cap. 573.

Provided that the Agency shall be given a right of first refusal when it comes to the allocation of the immovable cultural property.

(5) Every movable object of cultural value discovered in any location within Malta, its territorial waters, and its contiguous zone irrespective of the method of discovery shall belong to Government and administered by the Superintendence in accordance with article 50.

(6) Whenever cultural property is discovered, the Superintendent may require:

- (a) the discovery to be photographed or otherwise documented or recorded, and that the documentation be delivered to the Superintendent at such times as

may be stated in the revocation notice;

- (b) the drawing up of amended plans relative to any work, development or activity or any part thereof; and
- (c) any work, development or activity or any part thereof to be carried out under monitoring or supervision as may be stated in the revocation notice, by such warrant holder, professional or monitor.

Suspension
notices.
Substituted by:
XIX.2019.47;
XLI.2021.25.

62. (1) Where any development or other work, including restoration, is being carried out in respect of any cultural property in contravention of any of the provisions of this Act, or any person holding a licence to carry out archaeological excavations, or a warranted conservator-restorer or listed persons, or accredited monitors, experts or organisations mentioned under this Act does not conform to any condition attached to such licence, or any person holding a development permit in the case of an accidental discovery of a cultural property, or holds a permit for restoration and fails to conform to the said permit, or in the event of a contravention of any condition contained in any permit in contravention of this Act, the Superintendent may serve a suspension notice on the person carrying out such development, work, restoration or excavation, or on the owner of the property where such development or works are being carried out, on the owner, possessor or holder of the cultural property and thereupon the person served with the order shall suspend all activity in connection with the development work, restoration or excavation.

(2) The Superintendent may revoke any such suspension notice either absolutely or subject to such conditions as the Superintendent deems appropriate.

Conservation and
Protection order.
Substituted by:
XIX.2019.48.
Amended by:
XLI.2021.26.

63. (1) The Superintendent may, in the case of any infringement of any of the provisions of this Act or of any regulations made thereunder, or in the case of any activity or development where cultural property might be at risk, serve a conservation and protection order on the owner or occupier or possessor of cultural property requiring such action as may be specified in the notice, including the discontinuance of anything being done or carried on, or planned to take place, to be taken within such time as may be specified in the order.

(2) If any action required to be taken by a conservation and protection order has not been taken within the time specified therein, the Superintendent shall have the right to enter the cultural property and may for such purpose request the assistance of the Executive Police and take the required action, where applicable at the expense of the owner or the occupier or the possessor:

Provided that the Superintendent may register a special privilege on the property for the amount of expenses due.

(3) Saving the provisions of article 46 of the Constitution or of article 4 of the [European Convention Act](#) no precautionary order or warrant may be issued by any court restraining the Superintendent from issuing an order under this article or of doing anything which he is authorised to do by this article.

Cap. 319.

(4) The Superintendent may revoke any such conservation and protection order either absolutely or subject to such conditions as the Superintendent deems appropriate.

64. (1) The Superintendent may with the authority in writing of the Minister, in concurrence with the Minister responsible for government property, enter by public deed, into a guardianship deed with a local council or with a non-government organization or with the Agency whereby the custody and administration of immovable cultural property is passed over to the local council or the non-government organisation or the Agency, as the case may be, in accordance with the provisions of this Act and of such regulations as may be prescribed and subject to such conditions not being inconsistent therewith as may be contained in the deed. The guardianship deed shall state the term for which it is entered, which term shall be approved by the Superintendent on a case by case basis, following the careful consideration of the feasibility and scale of undertaking of each proposal.

Guardianship.
Substituted by:
XIX.2019.49.

(2) The Minister shall, however, within four weeks after its publication, or if the House is not then in session, within four weeks of the date when the House next meets, lay a copy thereof on the Table of the House, and the guardianship deed shall be subject to the condition that if on a motion tabled not later than twenty eight days after the laying on the Table of the House of the copy of the guardianship deed the House resolves that the guardianship deed shall be rescinded, the deed shall be automatically rescinded upon the passage of the resolution.

(3) Before authorising the Superintendent to enter into a guardianship deed the Minister shall seek the views of the Council as to the conditions to be included in the guardianship deed; such conditions shall in particular address the following matters:

- (a) the protective measures that are to be taken to safeguard the cultural property subject to the guardianship deed; and
- (b) the conservation and management plan relative to the cultural property, and the organizational, operational and financial arrangements in connection therewith, and the organizational, operational and financial resources to be dedicated therefor.

(4) A guardianship deed shall not prejudice any powers of any Entity established under this Act with regard to the cultural property subject to the guardianship deed.

(5) The cultural property subject to the guardianship deed shall remain the property of the Government.

(6) The Minister after consulting the Superintendent and the Council may at any time by order in the Gazette rescind a guardianship deed if any conditions stipulated therein or the provisions of this Act or of any regulations made thereunder are not observed by the other party.

(7) At the end of each calendar year the party in whose custody the cultural property is placed shall transmit to the Minister, the Superintendent and the Council a report of its activities in relation to the cultural property and on the way it has executed the guardianship deed during the previous year. A copy of such report shall be laid on the Table of the House by the Minister.

(8) The Superintendent may renew a guardianship deed on the same terms and conditions for a further term, or terms, following prior written authorisation by the Minister. Any such renewal shall be registered with the Council and a copy thereof shall, within four weeks, be laid on the Table of the House.

(9) The Minister may make regulations generally prescribing rules in relation to guardianship.

Right of first
refusal to Agency
of vacant
Government
property
Added by:
XLI.2021.27.

64A. In the event that an immovable property belonging to the Government of Malta which is of cultural or historic importance becomes vacant or is available to the Superintendent or the Council, the Agency shall have the right of first refusal when it comes to the allocation of the immovable cultural property.

Exclusive right to
excavate.
Substituted by:
XIX.2019.50.

65. (1) Archaeological or palaeontological excavations or explorations for cultural property, including investigations, field evaluations, survey and monitoring, on land as well as in the territorial waters or in the contiguous zone of Malta can only be made by the Superintendent, or with the written permission of the Superintendent and in accordance with any condition attached thereto:

Provided that without prejudice to the provisions of article 60, it shall be lawful for the Superintendent to undertake or cause excavations to be carried out for the purposes of this Act in any part of Malta, whenever such excavations are considered to be expedient and subject to any regulations made under article 72(d):

Provided further that the provisions of this article shall apply without prejudice to the provisions of article 61.

(2) When authorising activities referred to in sub-article (1), the Superintendent shall among other considerations and conditions that may be necessary, ensure that:

- (a) appropriate protective measures are taken to safeguard the cultural property subject to such activities;

- (b) such activities are undertaken according to a scientific research proposal, a methodology of the proposed activities, publication programme, a conservation and management plan for the cultural property and any object derived therefrom, adequate financial arrangements in connection therewith, and the organisational, operational, and financial resources to be dedicated therefor;
- (c) the production of adequate financial guarantee;
- (d) such authorized activity will have the least impact possible on the cultural property, and that non-destructive methods of investigation are applied wherever possible during such activity;
- (e) such activities and excavations and other potentially destructive techniques are carried out only by qualified, authorised persons; and
- (f) a full copy of the records of any such authorized activity shall be deposited by the authorized person with the Superintendent.

(3) The Superintendent may establish and designate archaeological reserves, even where there are no visible remains on the ground or under water, for the preservation of material evidence to be studied by later generations:

Provided that the creation of such archaeological reserves will be a material consideration in assessing:

- (a) authorisations for archaeological and paleontological excavations; and
- (b) permits for developments and other interventions impacting cultural property in accordance with article 59.

(4) The Superintendent shall include such archaeological reserves in the National Inventory.

(5) The Superintendent shall take all practical measures to ensure the drafting, following archaeological operations, of a publishable scientific summary record before the publication of the completed study:

Provided that the completed study shall be published not later than three years from the conclusion of the excavations.

66. The powers and duties under this Act shall be exercised in conformity with any international convention, treaty, agreement or instrument concerning the proper use and conservation of national or world cultural property to which Malta may be a party.

International
conventions, etc.
Renumbered by:
XIX.2019.51.

Return of stolen
and illegally
exported cultural
property.
Renumbered by:
XIX.2019.51.

67. (1) The Government is hereby authorised to ratify and become a party to the Unidroit Convention on Stolen or Illegally Exported Cultural Objects (Rome, June 1995).

(2) The Minister may, after consulting the Council, by regulations prescribe rules to give effect to any of the provisions of the said Convention and the provisions of any such regulations shall have effect notwithstanding the provisions of any other law to the contrary.

Right of appeal.
Substituted by:
XIX.2019.52.
Cap. 490.

68. (1) Any person who feels aggrieved by a decision of the Superintendent under articles 54, 55, 57, 62 and 63 shall have a right to appeal before the Administrative Review Tribunal established by article 5 (1) of the [Administrative Justice Act](#).

(2) The appeal to the said Tribunal shall be filed not later than twenty days of service of the decision of the Superintendent:

Provided that the filing of an appeal shall not suspend the execution of the decision appealed from.

(3) The Administrative Review Tribunal may, in its determination on any appeal entered in accordance with sub-article (1), confirm, reverse or vary, in whole or in part, the original decision.

Substituted by:
XIX.2019.53.

PART X

RELIGIOUS CULTURAL HERITAGE

Provisions
regarding religious
cultural heritage.
Substituted by:
XIX.2019.54.
Amended by:
XLI.2021.28.

69. (1) Without prejudice to any other law that may be in force, and until such time when there may be reached an agreement between the competent civil and ecclesiastical authorities, cultural property belonging to the Catholic Church, including to Catholic Religious Orders, and destined or used for religious purposes shall fall under the exclusive regulation and superintendence of the Catholic Cultural Heritage Commission to be appointed every two years by the President of the Malta Episcopal Conference, and to consist of not less than five experts one of whom shall be so appointed after consultation with the Minister.

(2) Cultural property belonging to, and destined or used for religious purposes by any denomination other than that mentioned in sub-article (1) may be placed by the relevant and competent religious authority under the exclusive regulation and superintendence of a religious cultural heritage commission. Each such religious cultural heritage commission shall be appointed for a period of two years by the relevant and competent religious authority, and shall consist of three experts one of whom shall be so appointed after consultation with the Minister.

(3) The commissions referred to in sub-articles (1) and (2) shall have the same powers and duties with regard to the cultural property under their superintendence as the Superintendent, and shall give a report about their work to the Forum:

Provided that where such commissions are not so appointed the regulation and superintendence of the property falling under

their competence will vest in the Superintendent.

(4) The Minister, after full consultation with the President of the Malta Episcopal Conference mentioned in sub-article (1) or with the relevant and competent religious authorities mentioned in sub-article (2), may prescribe rules regulating the powers and duties of, and the procedures and practices which should be followed by the commissions mentioned in sub-articles (1) and (2):

Provided that religious authorities and, or their respective superintendencies may delegate any function to the Superintendence established under article 7.

PART XI

*Substituted by:
XIX.2019.55.*

OFFENCES

70. (1) Any person who:

- (a) wilfully, or through negligence, unskillfulness or non-observance of regulations causes damage to or destroys any cultural property whether or not such cultural property has been registered in any inventory in accordance with this Act, and even if such cultural heritage property is owned by the person who has caused the damage or destruction, or is lawfully administered by such a person;
- (b) carries out any activity or does any act in contravention of the provisions of this Act or of any regulation made thereunder or of the conditions of any licence or permit issued under this Act or fails to do anything which he is required to do under this Act, regulation or licence; or
- (c) acts as a conservator-restorer when he is not in possession of a warrant under Part VI of this Act; or
- (d) fails to abide with any suspension notice issued in accordance with article 62 or with a conservation or protection order made in accordance with article 63; or
- (e) receives or retains any cultural property knowing that it has been illegally removed in Malta or illegally exported from any other country; or
- (f) hinders, obstructs, molests or interferes with, or attempts to hinder, obstruct, molest or interfere with, any officer or employee of the Superintendence, or of the Agency, or of the Council or any police officer, in the execution of duties provided for under this Act, or fails to comply with any lawful order by any such officer or employee or police officer as aforesaid, or knowingly furnishes such officers or employees with false information or neglects or refuses to give any information required by or under this Act; or
- (g) makes a declaration for any of the purposes of this Act which is false, misleading or incorrect in any material respect; or

*Wilful damage or destruction of cultural property.
Amended by:
L.N. 426 of 2007.
Renumbered/
Amended by:
XIX.2019.56;
XLI.2021.29.*

- (h) any person who knowingly is in possession of any form of cultural property which was acquired illegally and retained by such person,

shall be guilty of an offence against this Act and shall be liable, on conviction, to a fine (*multa*) of not less than two thousand euro (€2,000) and not exceeding two hundred and fifty thousand euro (€250,000), or to imprisonment for a term not exceeding six (6) years, or to both such fine and imprisonment:

Provided that, subject to the above maximum, the minimum fine (*multa*) to which an offender shall become liable under this article shall not be less than the value of any work required to remedy the effects of the offence.

(2) The liability of an offender under sub-article (1) shall be without prejudice to the liability of the offender to pay to the Superintendent any cost incurred in the reintegration, or restoration of the cultural property caused by the offence, or to pay into the Fund the value of the cultural property destroyed or damaged when the same cannot be reintegrated or restored. Such payment may be recovered by civil suit by the Superintendent against the offender or his heirs.

(3) The Court, besides awarding the punishment referred to in this article, shall order the convicted offenders to remove the causes of the offence and to undo anything which was done without any permit required under this Act or to comply with the conditions imposed in such a permit, as the case may be, within a time sufficient for the purpose and in any case not exceeding three months from the date of the judgement and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a further fine (*multa*) of not less than two hundred euro (€200.00) and not more than five hundred euro (€500), as the court may fix, for every day the default continues after the expiration of the said time.

Power to prosecute and to assist the Police and other officers.

Renumbered/
Amended by:
XIX.2019.57.

71. (1) In prosecutions for offences against this Act or against regulations under this Act, officials of the Superintendence shall to assist the police, and to plead the case before the Courts of Magistrates.

(2) Officers of the Superintendence may assist the Police, Customs or any other Government body, when the same are exercising powers conferred under any other laws, in the exercise of any of their powers to prevent the commission of an offence against this Act or to secure evidence concerning any such offence.

Substituted by:
XIX.2019.58.

PART XII

REGULATIONS

Power to make regulations.
Renumbered/
Amended by:
XIX.2019.59;
Amended by:
XLI.2021.30.

72. The Minister may make regulations to give effect to any of the foregoing provisions of this Act, or to regulate or otherwise provide for any matter relating to activities affecting cultural property, and may in particular, but without prejudice to the generality of the foregoing, make regulations for any of the

following purposes:

- (a) to establish any fees and dues which may be payable by or under, or for services rendered pursuant to, the provisions of this Act;
- (b) to ensure the better fulfilment of the functions of the Entities;
- (c) to regulate the appointment of officers and employees with any of the Entities;
- (d) to regulate any excavation and exploration;
- (e) to establish guidelines for best conservation and restoration practice;
- (f) to provide for any forms or procedures which may be necessary or expedient and for which no express procedure is contained in this Act;
- (g) to regulate trade and commerce in cultural property;
- (h) to regulate movement of cultural property;
- (i) to prescribe rules to give effect to the provisions of any international convention concerning the protection of the cultural heritage, ratified by the Government of Malta; or for the compliance with international obligations contracted by the Government of Malta regarding heritage;
- (j) where not otherwise provided in this Act, to prescribe rules regulating the powers and duties of, and the procedures to be followed by, any entity, commission, committee or board established by or under this Act;
- (k) to set out and publish the requirements for accreditation as established in article 39;
- (l) to establish the parameters within which, and the types of cultural property in respect of which, the powers under articles 54 and 55 shall be exercised;
- (m) to publish the requirements for accreditation of non-government organizations in accordance with article 7(5)(m);
- (n) to establish the list of Heritage Skills;
- (o) to provide for the form and procedure in respect of applications and the grant of permits for interventions in cultural property under article 59, and to provide for appeals from decisions of the Superintendent on the same;
- (p) to establish the rules relative to the aptitude test;
- (q) to establish guidance, rules and regulations and to provide for the form and procedure for the entrustment of public collections and sites;
- (r) to provide for administrative infringements and fines including out of court settlements;
- (s) to prescribe anything else which may or is to be

prescribed under this Act.

*Substituted by:
XIX.2019.60.*

PART XIII

MISCELLANEOUS

*Saving.
Renumbered by:
XIX.2019.61.*

73. Any regulations made under the Antiquities (Protection) Act, repealed by this Act, shall continue in force and have effect as if made under this Act, and may be amended or repealed accordingly, and the provisions of this Act shall apply to any contravention of such regulations as if they were made under this Act.

*Substituted by:
L.N. 426 of 2007;
XIX.2019.62;
XLI.2021.31.*

SCHEDULE

(Article 54)

RATE OF EXPORT DUTY

Certificate for movement within the EU - applies for both "import" and "export" from any EU State	Administration Fee: €65 including VAT Express Fee: €200 including VAT
Certificate for export/re-export (to outside the EU) of cultural heritage items over fifty (50) years old	15% <i>ad valorem</i> fee of the declared value or as established in the Act, plus: Administration Fee: €65 including VAT Express Fee: €200 including VAT