

Artist Resale Royalty and GLAM Retail: Need to Know

How does the scheme apply to GLAM organisations?

The scheme applies to:

- publicly funded art galleries; and
- publicly funded museums, libraries, and archives that collect and display artworks ("GLAM").

Three ways the Scheme affects GLAM:

1. GLAM are not Art Market Professionals (AMPs).
2. However, resales involving GLAM do fall within the Scheme. If any GLAM is involved in a resale of original visual artwork it may still count as a "professional resale" (and therefore a "qualifying resale"). (See Step 1 of the Criteria to learn what a qualifying resale is).
3. GLAM don't have liability for paying the royalty. Generally, GLAM aren't required to report to RRA on qualifying resales either, UNLESS there are no Art Market Professionals involved in the resale. In that event, then each GLAM will be responsible for reporting information about the resale to RRA.

Are GLAM gift shops acting as AMPs when selling original visual artworks to their customers when the first sale is between the artist and the GLAM gift shop?

In this case yes, as the GLAM gift shop can be regarded as "any other person who is in the business of dealing in visual artworks", they will fit the definition of an AMP under the act. In any event, the obligations will be the same whether they are regarded as a GLAM member or an AMP, as the responsibility will be for them to report and pay the relevant royalty if required.

In the above example is a GLAM gift shop required to report buyer information for qualifying resales in a retail context (e.g. an American Tourist purchases art)? What if the GLAM gift shop is prepared to assume full liability for the resale?

Section 21 of the Act details the reporting requirements which includes as follows:

- (a) the name of the artwork, if known:
- (b) a brief description of the artwork:
- (c) the resale value:
- (d) the name of the artist, if known:
- (e) the name and contact details of the persons liable under [section 17](#) to pay the resale royalty, if known:
- (f) any other information specified by the regulations.

If the GLAM gift shop assumes full liability for payment of the royalty, then RRA would not require the shop to report the name of the buyer, because liability will be discharged as soon as full payment is received by RRA.

Is a GLAM required to report seller information for resales to the GLAM where the resale / donation is conditional to anonymity? E.g. Executor of an estate.

If it is a donation then it is unlikely to be a qualifying resale (see below). But if it is a qualifying resale, it is as above.

i.e. If the GLAM assumes full liability for payment of the royalty, and pays the royalty to RRA, then RRA would not require the GLAM to provide the name and contact details of the seller. The GLAM (and the seller's) liability becomes fully discharged as soon as full payment is received by RRA. Regarding any anonymity concerns, please be assured that personal information provided to RRA is not shared publicly. In particular, seller information received by RRA is not shared with the Ministry for Culture and Heritage nor any other third party – rather it is used only for the purposes of ensuring payment of the royalty to RRA. Please refer to our [Privacy policy](#) on the RRA website for more information.



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Is the GLAM required to report a qualifying resale in instances where they have not identified the artist? e.g. Maori artifact. Yes. A GLAM must report all “qualifying resales” (even if the identity of the artist is unknown – see section 21(2)(d)).

Please note, however, that not every qualifying resale the GLAM reports will necessarily attract a royalty. If the artist is unknown to the GLAM, RRA will nevertheless attempt to identify the artist in order to confirm whether or not they are eligible for a royalty. RRA will receive and review the full report, then confirm to the GLAM which resales are (or are not) liable for a royalty in accordance with the Act, and then invoice accordingly.

For assistance with what is a “qualifying resale” see our step-by-step flowchart under the ‘Criteria’ section. Located on the homepage of the RRA website – www.resaleroyalties.co.nz.

What is the time limit for retrospectively reporting a resale when additional information to support a qualifying resale becomes available?

Section 17 (2) of the Act states that the liability for payment of a resale royalty arises on completion of the qualifying resale, and Section 17 (3) of the Act states that liability is discharged when the total amount of the resale royalty is paid to the Collection Agency. This means that there is no time limit for retrospectively reporting a resale, and so in the event you discover a liability you must report and make payment to RRA within the timeframe (Section 17 (4)). Section 8 of the Regulations states the applicable time frame is as follows:

Payment of the resale royalty must be made to the collection agency within 60 working days after the later of the following:

- (a) the date on which the qualifying resale is completed;
- (b) the earliest date on which a person liable under section 17 of the Act to pay the resale royalty becomes aware that they are liable to pay the resale royalty.

Does the transfer of a collectors estate count as a qualifying resale? E.g. Art collector leaves collection to a GLAM.

The Transfer of a collector's estate is unlikely to count as a qualifying resale unless there is consideration given. If no consideration is given, then in our view that is not a qualifying resale. If, however, consideration is given it may be a qualifying resale.

Is protest art an original visual artwork (e.g. a protest placard)?

We consider that each respective GLAM is best qualified to determine whether an item meets the definition of “original visual artwork”. Section 8(2) defines visual artworks as:

In this Act, visual artwork—

- (a) includes a visual work of any 1 or more of the following types:
 - (i) a cultural expression of Māori;
 - (ii) a cultural expression of Pacific peoples;
 - (iii) ethnic or cultural art that is a variation of a type of work described in any of subparagraphs (iv) to (ix);
 - (iv) painting, drawing, carving, engraving, etching, lithography, woodcutting, or printing (including a book of prints);
 - (v) sculpture, collage, or modelling;
 - (vi) craftwork, ceramics, glassware, jewellery, textiles, weaving, metalware, or furniture;
 - (vii) photography or video art;
 - (viii) multimedia art;
 - (ix) art that is created using computers or other electronic devices

(b) does not include—

- (i) a building, as defined in section 2(1) of the Copyright Act 1994;
- (ii) a dramatic work or musical work, as those terms are defined in section 2(1) of the Copyright Act 1994;
- (iii) a literary work, as defined in section 2(1) of the Copyright Act 1994, unless it is a compilation that includes a visual work of a type specified in paragraph (a)(i) to (ix);
- (iv) a work of a type specified in the regulations.

What are the GLAMs reporting obligations when reporting a qualifying resale when the purchase is made from a collective? (e.g. A group of artists who work collectively or under an umbrella ‘collective’ organization).

The same reporting rules apply. Assuming it is a qualifying resale (i.e. not a first sale), the responsible party must report the sale under section 21. That must include information about the name of the artist (or artists) if known.

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