



Cultural Property (Armed Conflicts) Act 2017

2017 CHAPTER 6

PART 3

CULTURAL EMBLEM

8 The cultural emblem

In this Part “the cultural emblem” means the design shown below, coloured as described in the key.



Key

- | | |
|--------------------------|------------|
| <input type="checkbox"/> | white |
| <input type="checkbox"/> | royal blue |

9 Offence of unauthorised use

- (1) It is an offence for a person to use the cultural emblem otherwise than as authorised by section 10, 11 or 12.
- (2) In subsection (1) the reference to the cultural emblem includes any other design that so nearly resembles the emblem as to be capable of being mistaken for it.
- (3) A person guilty of an offence under this section is liable on summary conviction—
 - (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (4) Proceedings for an offence under this section may be brought—

- (a) in England and Wales, only by or with the consent of the Director of Public Prosecutions;
- (b) in Northern Ireland, only by or with the consent of the Director of Public Prosecutions for Northern Ireland.

10 Use authorised by appropriate national authority

- (1) Use of the cultural emblem is authorised by this section if the use is in accordance with permission granted by the appropriate national authority for the part of the United Kingdom in which the use takes place.
- (2) But use of the cultural emblem in relation to immovable cultural property is authorised by this section only if a copy of the permission is displayed alongside the cultural emblem.
- (3) Permission under this section—
 - (a) may be general or specific;
 - (b) may be withdrawn.

11 Other authorised use: moveable property

- (1) Use of the cultural emblem is authorised by this section if the use is for the purpose of identifying moveable cultural property.
- (2) Use of three representations of the cultural emblem (in a triangle, with one emblem below) is authorised by this section if the use is for the purpose of identifying cultural property that is undergoing protected transportation.
- (3) Cultural property is undergoing protected transportation if it enjoys the protection provided for in Article 12 or 13 of the Convention.

12 Other authorised use: personnel

- (1) Use of the cultural emblem is authorised by this section if the use is for the purpose of identifying—
 - (a) a person mentioned in Article 2 or 7 of the Regulations for the execution of the Convention (persons responsible for control), or
 - (b) a person who is designated for the purpose of this paragraph by any of the appropriate national authorities.
- (2) The appropriate national authority for a part of the United Kingdom may designate a person for the purpose of subsection (1)(b) only if the authority believes the person to be engaged in the protection of cultural property in that part of the United Kingdom (but a designation applies for the purposes of subsection (1)(b) even in relation to use of the cultural emblem in other parts of the United Kingdom).

13 Defences

- (1) If a person is charged with an offence under section 9 by reason of using a design, it is a defence to show that subsection (2), (3) or (4) applies.
- (2) This subsection applies if the use of the design is for a purpose for which the accused lawfully used it before this section comes into force.

- (3) This subsection applies if—
 - (a) the design is registered as a trade mark,
 - (b) the use is in relation to goods or services for which the trade mark is registered,
 - (c) the trade mark was registered in relation to those goods or services before this section comes into force, and
 - (d) the use of the design is not an infringement of the trade mark.
- (4) This subsection applies if—
 - (a) the design is used on goods,
 - (b) the design was applied to the goods before the accused acquired them, and
 - (c) the person who applied the design to the goods falls within subsection (5).
- (5) A person falls within this subsection if the person—
 - (a) manufactured the goods or dealt with them in the course of trade, and
 - (b) lawfully used the design in relation to similar goods before this section comes into force.
- (6) If there is sufficient evidence before the court to raise an issue with respect to a defence under this section, the court must assume that the defence is made out unless it is proved beyond reasonable doubt that it is not.

14 Forfeiture following conviction under section 9

- (1) If a person is convicted of an offence under section 9 by reason of using a design on an article, or in connection with an article, the court by which the person is convicted may order the forfeiture of the article.
- (2) The court may also make such provision as appears to it to be necessary for giving effect to the forfeiture.
- (3) That provision may include, in particular, provision relating to the retention, disposal or destruction of the article.
- (4) Provision made under this section may be varied at any time by the court that made it.

15 “Appropriate national authority”

For the purposes of this Part—

- (a) the Secretary of State is the appropriate national authority for England;
- (b) the Welsh Ministers are the appropriate national authority for Wales;
- (c) the Scottish Ministers are the appropriate national authority for Scotland;
- (d) the Department for Communities in Northern Ireland is the appropriate national authority for Northern Ireland.