

Protection of cultural property in the event of armed conflict

Implementation of the 1954 Hague Convention, its Protocols and the Cultural Property (Armed Conflicts) Act 2017 in Scotland

December 2017

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Background

1. This document provides information on the Scottish Government's implementation of aspects of:
 - **the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict** ("the Convention"), its two Protocols of 1954 and 1999 ("the Protocols"), and
 - **the Cultural Property (Armed Conflicts) Act 2017** ("the 2017 Act").

Equivalent guidance applying to the whole of the United Kingdom can be found on the Department for Culture, Media and Sport website.

2. The Convention is an instrument of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) which was adopted following the massive destruction of cultural property that took place in the Second World War. It provides for a system of protection of cultural property in situations of armed conflict. Countries which have ratified the Convention (State parties) are required to respect cultural property both within their own territory and within the territory of other States party. They do so by:
 - refraining from using cultural property, or its immediate surroundings, for purposes which are likely to expose it to destruction or damage in armed conflict, and
 - refraining from committing any hostile act against the property.
3. UK and Scottish laws protecting cultural property were not sufficient to enable the United Kingdom to comply fully with the Convention before the 2017 Act was passed by Parliament and received Royal Assent on 23rd February 2017. The 2017 Act, and hence, the Convention and Protocols, enter into force for the United Kingdom on 12th December 2017.
4. [The full texts of the Convention, First Protocol and Second Protocol can be found on the UNESCO website](#). They are also appended as schedules [to the 2017 Act, the full text of which can be found on the UK legislation website](#), together with the Explanatory Notes.
5. This document sets out the Scottish Government's implementation measures in three key areas:
 - a. Identifying cultural property protected by the Convention (section 1);
 - b. Safeguarding cultural property protected by the Convention (section 2);
 - c. Use of the cultural emblem (section 3).
6. Protection of Cultural property is a devolved matter in Scotland. However, the list of cultural property protected by the Convention in section 1 is UK wide and has been agreed between the UK and Scottish Governments and the other devolved administrations. A separate document provides guidance on the new offence of dealing in unlawfully exported cultural property, which was introduced by section 17 of the 2017 Act which can be found on the DCMS website.

1. UK cultural property protected by the Convention

1. The Convention defines cultural property as:
 - (a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
 - (b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);
 - (c) centers containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as 'centers containing monuments'.
2. In order to qualify as 'cultural property' under the Convention, the property must be of '*great importance to the cultural heritage of every people.*' This may be one of the types of cultural property listed in (a) above, but other types of cultural property may also be included.
3. State parties do not need to set out details of the types of cultural property in their territory which they think should be protected under the Convention. However, there is a practical benefit to the owners and trustees of cultural property and to our armed forces and those of other countries, in indicating the UK cultural property which we consider to be protected.
4. In 2005 the UK Government consulted the public on the types of cultural property in the UK which they thought met the definition in the Convention. The responses to that consultation, and to further consultation with key stakeholders, has helped in finalising the list set out below. However, as stated above, this is published for guidance only; any cultural property which meets the definition set out in the Convention is protected, whether or not it is included in the list.

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| A. All listed buildings of Grade I (England and Wales), Category A (Scotland) and Grade A (Northern Ireland) status |
| B. All historic parks and gardens of Grade I status in England and Wales |
| C. All UK World Heritage Sites, excluding those which are inscribed as natural sites only |
| D. The collections of the museums and galleries that are sponsored by Her Majesty's Government, the Scottish Government, the Welsh Government and the Northern Ireland Executive |
| E. Designated Collections in England and Recognised Collections in Scotland (covering collections at museums, galleries, libraries, archives and universities) |
| F. The records and collections of the National Record Offices, the five legal deposit libraries in the UK and the British Film Institute National Archive |
| G. Properties in state guardianship in the UK (including properties in the National Heritage Collection in England; Properties in Care of the Scottish Ministers; Properties in Care of the Welsh Ministers; and Monuments in State Care or Guardianship in Northern Ireland). |

2. Safeguarding cultural property protected by the Convention

1. The Convention also recommends that during peacetime State Parties should put in place measures to safeguard cultural property in their own territory against the foreseeable effects of an armed conflict. The Second Protocol gives examples of the kind of measures that could be taken. These include:
 - preparation of inventories;
 - planning emergency measures for protection against fire or structural collapse;
 - preparation for the removal of movable cultural property, or providing on-site protection; and
 - agreements about which bodies are responsible for safeguarding cultural property.
2. Existing protective measures and normal contingency planning in the UK cover the first three suggestions above, for example the Fire Safety (Scotland) Regulations 2006, or the management/conservation implications of particular designation, recognition and listing schemes.
3. The existing owners, guardians or trustees of cultural property are the right people to put in place safeguarding measures. They are already directly responsible for the cultural property and should therefore have contingency plans in place to cover a disaster or civil emergency.
4. In many cases, additional safeguarding measures will not be needed. However, the type of cultural property, its location and an assessment of the degree of risk to the property may mean extra safeguarding measures should be considered. They may also depend on the nature of the armed conflict expected. However, the government does not expect armed conflict affecting the United Kingdom in the foreseeable future.
5. We are not, therefore, imposing any additional or specific safeguarding requirements on the owners, guardians and trustees of cultural property to be implemented during peacetime.
6. Those who need advice and guidance on how best to safeguard their cultural property should contact the appropriate specialists:
 - **Museums Galleries Scotland** provides advice and guidance to museums on safeguarding and protecting their collections and buildings in the event of natural disasters and civil emergencies.
 - **Historic Environment Scotland** provides advice and guidance on safeguarding and protecting the historic environment.
7. Both organisations will, over time, update their published guidance to include, where appropriate, advice on safeguarding cultural property in the event of armed conflict.

3. Use of the cultural emblem

1. The cultural emblem is an internationally recognised symbol used to identify cultural property. The emblem is protected by law and is used to identify individuals responsible for the protection of cultural property during an armed conflict.
2. The emblem takes the form of a royal blue triangle above a royal blue square on a white shield.



3. Use of the cultural emblem is strictly controlled in order to protect its integrity. Under the 2017 Act, the cultural emblem may only be used:
 - to identify movable cultural property
 - to identify certain personnel responsible for the protection of cultural property, or
 - by permission granted by the appropriate national authority.
4. The appropriate national authority in Scotland is the Scottish Ministers. It is an offence to use the cultural emblem, or a design so similar that it could be mistaken for it, except where authorised, or where the design was already being used for a legitimate purpose before the Act came into force on 12th December 2017.
5. The Scottish Ministers have granted permission to:
 - the **Ministry of Defence** to use the cultural emblem in connection with the work of the Armed Forces' Cultural Property Protection Unit
 - the **British Red Cross Society** to use the cultural emblem in support of its work promoting humanitarian values and international humanitarian law, as it relates to the protection of cultural property in the event of armed conflict
 - **Blue Shield International**, the **UK National Committee of the Blue Shield** and other **National Committees of the Blue Shield** to use the cultural emblem to identify themselves and their members
 - **anyone** to use the cultural emblem for education and training purposes, for example to include it in information leaflets and brochures, textbooks and training materials
6. These permissions are set out in the Annex to this document. Anyone else who wishes to use the cultural emblem for any other purpose will require permission to

do so. However, the Scottish Ministers take the view that there is no need to display the cultural emblem other than for the reasons set out above during peacetime. We will not, therefore normally grant permission to do so. Exceptions to this will require a strong and persuasive case to be made. This will help to protect the integrity of the cultural emblem as a symbol of protection during armed conflict.

7. The owners, guardians and trustees of cultural property which is protected by the Convention and its Protocols are free to use the permission for education and training purposes to include the cultural emblem in their leaflets, brochures and other publications and on their websites in order to inform the public about the emblem and the protection it represents.
8. Anyone wishing to make an exceptional case to use the cultural emblem must request permission from the Scottish Ministers. Requests should be sent in writing to the Scottish Ministers, explaining clearly why permission is required and how the cultural emblem will be used.



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Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78851-511-5 (web only)

Published by The Scottish Government, December 2017

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS341786 (12/17)