



Cultural Property (Armed Conflicts) Act 2017

2017 CHAPTER 6

PART 3

CULTURAL EMBLEM

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.

Status: This is the original version (as it was originally enacted).

- (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.