

# CULTURAL OBJECTS (PROTECTION FROM SEIZURE) ACT 2022

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Cultural Objects (Protection from Seizure) Act 2022 which received Royal Assent on 28 April 2022 (c. 24).

- These Explanatory Notes have been prepared by the Department for Digital, Culture, Media and Sport in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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## Overview of the Act

- 1 Under section 134 of the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”), cultural objects on loan from abroad to UK museums and galleries approved under the 2007 Act are protected from seizure or forfeiture for a period of 12 months from the date the object enters the UK.
- 2 The Act amends the 2007 Act to allow the period of protection to be extended for a further period of up to 3 months for objects on loan to approved museums and galleries in England and Scotland. The power to extend a period of protection may be exercised by the Secretary of State for Digital, Culture, Media and Sport and/or Scottish Ministers, depending on the location of the object and the approved institution, and would be considered on a case-by-case basis where need arises and taking account of the circumstances in each case.
- 3 The Act contains two sections covering the following matters:
  - Protection of cultural objects on loan
  - Extent, commencement and short title

## Policy background

- 4 The 12-month period of protection from seizure or forfeiture under the current legislation has normally provided a sufficient length of time for museum exhibitions to take place and for objects on loan from abroad to be returned in line with agreed schedules and before the period of protection has expired. However, the disruptions to international travel during 2020 created problems when loaned objects due to be returned to their country of origin were unexpectedly delayed in the UK. Unable to travel out of the UK, these objects were left at risk of being unprotected should the 12-month limit expire before the borrowing institutions could arrange for their return.
- 5 Unforeseen environmental factors have caused major international air travel disruption in the past, and this too posed a risk to the timely return of cultural objects on loan from international lenders, for example, the eruption of the Eyjafjallajökull volcano in Iceland in 2010, which grounded over 100,000 flights.
- 6 In the event that objects on loan are unexpectedly delayed within the UK and are unable to be returned within the 12-month timeframe, the measures within the Act provide a mechanism to extend the length of time an object is protected from seizure or forfeiture whilst in England or Scotland. This will help alleviate concerns from museums and international lenders that cultural objects on loan to approved museums and galleries may be left unprotected should the protection expire before the objects can be returned.
- 7 Whilst the risk of seizure or forfeiture is extremely small, a number of countries place great importance on having this protection. The Act provides a greater degree of certainty over the protection available for cultural objects on loan. The knowledge that the length of protection can be extended at the discretion of the relevant authority helps to increase the confidence of owners that objects loaned to approved museums and galleries are secure.
- 8 A museum or gallery to which an object has been loaned must apply to have the period of protection extended. The relevant authority will exercise their discretion to extend the 12 month period in specific cases and where circumstances warrant. Where an extension to the period of protection is granted, approval will be confirmed in writing to the applying museum or gallery.

- 9 Policy guidance for museums and galleries on how to apply for an extended period of protection has been issued by the relevant authorities.

## Legal background

- 10 Section 134(4) of the 2007 Act limits the period of protection to 12 months from the date the object enters the UK, except where subsection (5) applies. Subsection (5) provides that protection will continue beyond 12 months where the object suffers damage and as a result undergoes repair, conservation or restoration in the UK.
- 11 The Act allows the period of protection to be extended for a further period of up to 3 months by the Secretary of State (where the object is in England for any of the purposes listed in subsection (7)(b) to (e), or is in the UK for the purpose of display at an institution in England), or Scottish Ministers (where the object is in Scotland for any of the purposes listed in subsection (7)(b) to (e) or is in the UK for the purpose of display at an institution in Scotland). More than one extension of up to 3 months can be granted in relation to the same object.

## Territorial extent and application

- 12 Whilst the extent of the Act is UK-wide in line with the extent of Part 6 of the 2007 Act, the new provisions will only apply in England and Scotland.
- 13 Currently only museums in England and Scotland have been approved to use immunity from seizure protection under the 2007 Act. This Act provides the Secretary of State for Digital, Culture, Media and Sport and Scottish Ministers with a further power to agree extensions to the length of time an object on loan to an approved museum in England or Scotland can be protected from seizure.
- 14 Any exercise of the power to extend the length of time an object is protected by either the Secretary of State or Scottish Ministers will have no effect in Northern Ireland or Wales. Welsh Ministers and the Department for Communities in Northern Ireland cannot exercise the power to extend the period of protection afforded to objects on loan in their respective jurisdictions.
- 15 Under the 2007 Act, the Secretary of State for Digital, Culture, Media and Sport approves institutions in England and powers are devolved to Ministers in Scotland and Wales and to the Department for Communities in Northern Ireland to approve institutions in those jurisdictions under the 2007 Act. This Act does not alter the powers of any of the devolved administrations to approve institutions under the 2007 Act. Immunity from seizure protection will apply to cultural objects on loan to those institutions for the standard period of up to 12 months, providing the relevant conditions are met.
- 16 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

# Commentary on provisions of Act

## Section 1: Protection of cultural objects on loan

- 17 This section amends sections 134 and 137 of the 2007 Act.
- 18 Subsection (2) inserts new subsections (4A) to (4E) into section 134 of the 2007 Act.
- 19 New subsection (4A) provides that the relevant authority has the power to extend the existing maximum period of protection for a further period of up to 3 months.
- 20 New subsection (4B) defines ‘relevant authority’ for the purposes of subsection (4A). The relevant authority is the Secretary of State where the object is in England for any of the purposes listed in subsection (7)(b) to (e), or is in the UK for the purpose of display at an institution in England, and Scottish Ministers where the object is in Scotland for any of the purposes listed in subsection (7)(b) to (e), or is in the UK for the purpose of display at an institution in Scotland.
- 21 New subsection (4C) clarifies that the power in new subsection (4A) can be exercised more than once in relation to the same object, and, where it is exercisable by both the relevant authorities at a particular time in relation to the same object, is exercisable by them concurrently. This will, among other things, ensure that an extended period of protection can be provided for an object which is in the UK for the purpose of exhibitions in both Scotland and England, and provide flexibility as to which authority exercises the power in relation to that object.
- 22 New subsection (4D) clarifies that any extension granted under subsection (4A) is in addition to the ‘maximum protection period’, which comprises the initial 12-month period under subsection (4)(b) together with any additional period of protection arising under subsection (5) where the object has suffered damage, and any period of extension already granted under subsection (4A).
- 23 New subsection (4E) provides that, where the period of protection in relation to an object has been extended under new subsection (4A), certain references in section 134 to the United Kingdom are to be read as reference to England or Scotland, meaning that protection will only continue as long as the object is in England or Scotland.
- 24 Subsection (3) amends section 134(5) of the 2007 Act to make clear that, where the period of protection has been extended under new subsection (4A), the object will continue to be protected after the end of the extended period if it has suffered damage while in the UK and as a result undergoes repair, conservation or restoration in the UK.
- 25 Subsection (4) makes consequential amendments to the definition of “United Kingdom” in section 137 of the 2007 Act.

## Section 2: Extent, commencement and short title

- 26 Subsection (1) provides that the Act extends to England and Wales, Scotland, and Northern Ireland.
- 27 Subsection (2) provides that the Act comes into force at the end of the period of two months after the Act is passed.
- 28 Subsection (3) provides the short title of the Act.

## Commencement

29 The Act comes into force two months after it is passed.

## Related documents

30 The following documents are relevant to the Act and can be read at the stated locations:

- <https://www.gov.uk/guidance/protecting-cultural-objects-on-loan>
- <https://www.museumgalleriesscotland.org.uk/advice/collections/immunityfrom-seizure/>

# Annex A - Territorial extent and application in the United Kingdom

Provision	England	Wales	Scotland	Northern Ireland
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 1 and 2	Both extends and applies	Only extends	Both extends and applies	Only extends

*These Explanatory Notes relate to the Cultural Objects (Protection from Seizure) Act 2022 which received Royal Assent on 28 April 2022 (c. 24)*



## Annex B - Hansard References

31 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	18 June 2021	<a href="#">No volume number</a>
Second Reading	10 September 2021	<a href="#">Vol. 700 Col. 620-629</a>
Public Bill Committee	17 November 2021	<a href="#">Hansard – Cultural Objects (Protection from Seizure) Public Bill Committee</a>
Report and Third Reading	28 January 2022	<a href="#">Vol. 707 Col. 1188-1206</a>
<i>House of Lords</i>		
Introduction	31 January 2022	<a href="#">Vol. 818 Col. 624</a>
Second Reading	18 March 2022	<a href="#">Vol. 820 Col. 577-589</a>
Grand Committee	06 April 2022	<a href="#">Vol. 820 Col. 2087</a>
Report	N/A	N/A
Third Reading	25 April 2022	<a href="#">Vol. 821 Col. 20-22</a>
Commons Consideration of Lords Amendments	N/A	N/A
Royal Assent	28 April 2022	<a href="#">House of Lords Vol. 821 Col. 382</a>

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ISBN 978-0-10-560320-7



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