



The Union Flag and Flags of the United Kingdom

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Proposals for changing the rules relating to flags in the United Kingdom were proposed in the Green Paper *The Governance of Britain* published on 3 July 2007, followed by a consultation process run by the Department of Culture, Media and Sport (DCMS). The purpose of this Note is to set out a brief history of the flags of the United Kingdom and to explain the current guidance issued by the DCMS; it also refers to the current guidance issued by the Scottish Executive and the Welsh Assembly Government in respect of their premises and the rules relating to the Scottish Parliament building, the National Assembly for Wales (Senedd) building and the Northern Ireland Assembly building. Flag flying in Northern Ireland is governed by statute.

The green paper stated that the Government would consult on the guidance which currently restricts the flying of the Union Flag from Government buildings to 19 days a year (18 in England). During the consultation process, UK Government buildings in England, Scotland and Wales have been given the freedom to fly the Union Flag when they wish.

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A. Background

Currently, the Union Flag is flown on government buildings by command of Her Majesty the Queen. There is no formal definition of a Government building but 'it is generally accepted to mean a building owned or used by the Crown and predominately occupied or used by civil servants or Her Majesty's Armed Forces'.¹

The flying of flags is not the subject of statute law in England, Wales or Scotland. The Department for Culture, Media and Sport (DCMS) has responsibility for issuing guidance on the flying of national flags on government buildings, apart from those which are the responsibility of a devolved administration. There are 15 appointed days each year and 4 additional saints day's when the Union Flag is flown in the respective units of the UK (see Appendix A). In England there are 16 days, including St George's Day. In addition, the Union Flag is flown for the State Opening of Parliament and the prorogation of Parliament but in the Greater London area only. The Union Flag is also flown for visiting Heads of State or the death of Heads of State.

When Parliament is sitting, the Union Flag is flown from the Victoria Tower of the Palace of Westminster. The Union Flag is not flown while Parliament is in recess and will only be hoisted on the appointed days set out in Appendix A. Other buildings on the parliamentary estate fly the Union Flag in accordance with the guidance issued by the DMCS, although they are not formally covered by the guidance.²

B. The Governance of Britain green paper

The green paper, *The Governance of Britain*, was published on 3 July 2007.³ The green paper contains a broad set of proposals for constitutional reform, including the need for consultation on altering the current guidance issued for the flying of the Union Flag from UK Government buildings:

Symbols can help to embody a national culture and citizenship. The Union Flag is one of the most recognisable symbols of the UK. But while in other countries, such as France and the United States, the national flag is regarded as source of pride, in recent years the Union Flag has all too often become the preserve of political extremists, a symbol of discord rather than harmony. It is critical that this symbol is not hijacked by those who seek to work against the fundamental British values of tolerance and mutual respect.

While there are a number of reasons why the Union Flag may not be as widely flown in the UK as other national flag abroad, regulations on the use of the flag may be playing a role.⁴

The DCMS launched its consultation on 25 July 2007 on altering the guidance for flying the Union Flag from UK Government buildings.⁵ The Culture Secretary, James Purnell, said:

¹ DCMS – Flag Flying. Available at: <http://www.culture.gov.uk/flagflying/>

² HC Deb 10 January 2007 c582-3w

³ HM Government, *Governance of Britain*, 3 July 2007, Cm 7071. Available at: <http://www.official-documents.gov.uk/document/cm71/7170/7170.pdf>

⁴ Ibid

The union flag is a powerful symbol of both our heritage and modern, diverse Britain. It brings us together in solidarity and shared identity. We want to hear people's views about whether Government buildings should be allowed to fly it every day.⁶

The DCMS consultation document provides some background information on the current guidance it issues and the purpose of the consultation:

The Green Paper states that we want to consult on giving departments more flexibility over when they fly the Union Flag. The purpose of this consultation is therefore to gather views on when it would be appropriate to fly the Union Flag. Although, the guidance only applies to Government buildings, the impact of the changes is likely to affect other public organisations, because many choose to follow the Government guidelines.⁷

The consultation asks for views on three questions:

Q1. Do you think the Union Flag should be flown on Government buildings?

1. all the time
2. on working days only
3. on an increased number of fixed flag flying days
4. on the current 18 fixed flag flying days (see Appendix A)
5. or should departments be able to choose when to fly the Union Flag.

Q2. If only the current number of fixed flag flying days is increased which extra days should be included?

Q3. Do you have any other comments on flying the Union Flag on Government buildings?⁸

The deadline for responses is Friday 9 November 2007. The DMCS will publish a summary of the responses it receives within three months of the closing date.

During the consultation period, UK Government department buildings in England, Scotland and Wales have been given the freedom to fly the Union whenever they wish.⁹ The consultation does not apply to buildings of the Scottish Executive, the Scottish Parliament, Welsh Assembly Government and the National Assembly for Wales. Northern Ireland has specific legislation in the *Flags (NI) Order 2000* and the *Flags Regulations (NI) 2000* and the UK Government has no plans to alter these arrangements.¹⁰

⁵ *The Governance of Britain Flag Flying Consultation - Altering the current guidance on flying the Union Flag from UK Government buildings*. July 2007. Available at: <http://www.culture.gov.uk/NR/rdonlyres/D4A22BF1-DEA6-46C7-BBE8-4C32DBB21FB4/0/TheGovernanceofBritainflagflying.pdf>

⁶ DMCS 087/07, *Fly the flag*, 25 July 2007. Available at: http://www.culture.gov.uk/Reference_library/Press_notices/archive_2007/dcms087_07.htm?contextId={BA140B4F-1D2C-4D2F-98CF-A9B5E3C0E71A}

⁷ *Governance of Britain Flag Flying Consultation - Altering the current guidance on flying the Union Flag from UK Government buildings*, July 2007. Available at: <http://www.culture.gov.uk/NR/rdonlyres/D4A22BF1-DEA6-46C7-BBE8-4C32DBB21FB4/0/TheGovernanceofBritainflagflying.pdf>

⁸ *ibid.*

⁹ *ibid.*

¹⁰ *ibid.*

It should be noted that, unlike, for example, the United States, burning or defacing the Union Flag in public is not a specific offence. However, such actions may be relevant in the context of a possible public order offence, under section 5 of the *Public Order Act 1986* or arson under the *Criminal Damage Act 1971*.

C. Guidance for local authorities, individuals and organisations

The following parliamentary answer sets out the current guidance to local authorities with regard to the flying of the Union Flag from municipal buildings:

Mr. Pickles: To ask the Secretary of State for Culture, Media and Sport what guidance has been given to local authorities to encourage them to fly the Union flag from municipal buildings. [153720]

Margaret Hodge: Local authorities are already able to fly the Union flag on a daily basis from municipal buildings; it is a matter for them to decide. However, as some choose to follow Government guidance, we have updated the flag flying section of the DCMS website (www.culture.gov.uk/flagflying) and informed the Local Government Association. This follows the announcement by the Secretary of State for Culture, Media and Sport allowing all UK Government Departments to have the freedom to fly the Union flag when they wish while the Department carry out a consultation on altering the flag flying guidance.¹¹

Individuals and organizations may fly the Union Flag whenever they wish, subject to local planning requirements.¹² There are planning rules that apply when flags are flown on buildings other than government buildings. The rules relate to local planning requirements such as the erection of flag poles in particular areas. In response to a written parliamentary question tabled by Bob Spink, Keith Hill, Minister of State (Housing and Planning) Office of Deputy Prime Minister, gave the following answer:

Bob Spink: To ask the Deputy Prime Minister (1) what planning restrictions apply to (a) the erection of flag poles and (b) the flying of national flags; and if he will make a statement; [169752]

(2) if he will make it his policy to issue planning guidance to remove the need for planning permission for flag poles up to 18 feet in height in or on domestic properties. [169751]

Keith Hill: Under the Town and Country Planning (Control of Advertisements) Regulations 1992 ("the regulations"), prior local planning authority consent is not required, in respect of a site where planning permission has been granted for residential development, so long as the flagstaff is vertical, does not exceed 4.6 metres in height, and is not within a conservation area, area of outstanding natural beauty, National Park, the Broads area or an area of special control under the regulations. The flag advertisement can only be displayed for the period of one year. Otherwise express consent from the local planning authority is required.

¹¹ HC Deb 3 September 2007 c1603W.

¹² DCMS – Flag Flying. Available at: <http://www.culture.gov.uk/flagflying/>

National flags are exempt from control under the regulations provided each flag is flown from a single vertical flagstaff and it does not have anything else added to the design of the flag or any advertising material added to the flagstaff. We shall be amending the Regulations to exempt from control national flags however they are flown from a flagstaff.¹³

D. National flags of the United Kingdom

1. The United Kingdom

The Union Flag, commonly known as the Union Jack (when flown at sea), is the national flag of the United Kingdom of Great Britain and Northern Ireland. Variations of the Union Flag have existed since the beginning of the 17th century when the crowns of England and Scotland were joined together under King James I (James VI of Scotland) in 1603. After the *Act of Union 1707* which created the Kingdom of Great Britain, the Union Flag was officially adopted. The *Act of Union 1801* between the Kingdom of Great Britain and the Kingdom of Ireland created the United Kingdom of Great Britain and Ireland. The Union Flag is thus 'made up of the crosses of St George, St Andrew, and St Patrick, respectively the patron saints of England, Scotland, and Ireland, and it was first flown on 1 January 1801'.¹⁴

Following the *Anglo-Irish Treaty* of 1922, the Irish Free State came into being, which had the status of a self-governing dominion within the British Empire. It adopted the tricolour flag (green, white and orange). In 1949, the Irish Free State became The Republic of Ireland and kept the tricolour flag. Northern Ireland remained part of the United Kingdom and continued to use the Union Flag. The *Royal and Parliamentary Titles Act 1927* officially changed the name of the United Kingdom Parliament to reflect the change that had occurred with the creation of the Irish Free State in 1922. The *Parliament of the United Kingdom of Great Britain and Ireland* changed to the *Parliament of the United Kingdom of Great Britain and Northern Ireland*. The United Kingdom had therefore officially changed its name but there was no change to the Union Flag.

2. England

The national flag of England is the cross of St George. St George has been the patron saint of England since the 13th century but prior to this, St Edward the Confessor, King of England from 1042-1066 was widely regarded as the patron saint of England. Edward III established the Order of the Garter in 1348, which was dedicated to St Edward the Confessor and St George. St George is also the patron saint of soldiers and the cross of St George was worn by Knights of the Garter and soldiers alike as they went into battle. The cross of St George thus became widely used as a patriotic symbol and consists of a red cross on a white background. St George's Day takes place on 23 April each year, and under the current guidance, the cross of St George may be flown from UK Government buildings in England where a building has two or more flagstaffs, but it cannot be flown in a superior position to

¹³ HC Deb 30 April 2004 c1328W.

¹⁴ N Groom, *The Union Jack – The story of the British Flag*, 2006, p xiii

the Union Flag.¹⁵ Only if a UK Government building has more than one flag pole, can the cross of St George be flown. The Union Flag takes precedence over all national flags and the cross of St George is not flown on any other days.

3. Scotland

The National Flag of Scotland is the cross saltire of St Andrew (also known as the Saltire). St Andrew has been the patron saint of Scotland since the early part of the 12th century. The cross saltire of St Andrew consists of a blue cross on a white background. St Andrew's Day takes place on 30 November each year and under the current guidance, the cross of St Andrew may be flown from UK Government buildings in Scotland on St Andrew's Day where a building has two or more flagstaffs but it cannot be flown in a superior position to the Union Flag.¹⁶

Flag flying policy is a devolved matter for the Scottish Executive. It can draw up its own guidance to be issued for the flying of flags on Scottish Executive buildings. The current guidance issued by the Scottish Executive in January 2007 is that:

The Saltire should now where possible be flown every day. Other flags are to be flown only on the dates named on the accompanying Schedule [Appendix A]. The Protocol Unit, Strategy and Ministerial Support Directorate, Office of the Permanent Secretary will inform the relevant authorities of any other occasions on which The Queen has given a special command to fly flags. Only on exceptional occasions would a flag (other than the Saltire) be flown on a day other than a listed day. Any requests to fly flags on exceptional occasions must be cleared in advance with the First Minister.¹⁷

The SNP has been in favour of greater use of the Saltire in Scotland for some years. The Scottish Parliamentary Corporate Body (SPCB) is responsible for the administration of the Scottish Parliament. The Corporate Body reviewed its flag flying policy and adopted the following guidance at a meeting held on 23 November 2004:

The SPCB reviewed the current policy on flag flying in light of the move to Holyrood. It was noted that the flag poles were demountable so the number of flags being flown could be varied. It was proposed that 3 flags would be flown daily - the Union flag, the Saltire and the EU flag. The 4th flag pole would be used on occasions of visiting dignitaries e.g. Heads of State, heads of Government and officially invited guests. The 4th flag pole would also be used on certain international days that are officially recognised by the Parliament e.g. Commonwealth Day, United Nations Day. The 5th flag pole would only be required for the Royal Standard during a visit by Her Majesty The Queen or during a State visit i.e. when a Head of State visits and is accompanied by a member of the Royal Family.¹⁸

¹⁵ DCMS – Days for hoisting flags on government buildings. Available at:
<http://www.culture.gov.uk/flagflying/dates.htm>

¹⁶ *ibid*

¹⁷ The Protocol Unit, the Scottish Executive – Flag flying guidance. January 2007 Available at:
<http://www.scotland.gov.uk/Topics/People/royal-ceremonial/flag-guidance>

¹⁸ Scottish Parliamentary Corporate Body. Minutes of meeting held on 23 November 2004. Available at:
<http://www.scottish.parliament.uk/corporate/spcb/minutes/mops-04/mops04-1123.htm>

4. Wales

The National Flag of Wales is the Red Dragon (Y Ddraig Goch). This flag was officially adopted in 1959 and consists of two equal horizontal stripes, white above green, and a large red dragon passant. The dragon standard was traditionally associated with the Tudors.

St David is the patron saint of Wales and St David's flag consists of a gold cross on a black background. Unlike the other parts of the United Kingdom, Wales does not use the flag of its patron saint as its national flag. St David's Day takes place on 1 March each year and under the current guidance, the Red Dragon may be flown from UK Government buildings in Wales on St David's Day where a building has two or more flagstaffs but it cannot be flown in a superior position to the Union Flag.¹⁹

Wales has no direct representation on the Union Flag. After the successful military campaigns in Wales by King Edward I of England in 1282, Edward conferred upon his eldest son and heir the title Prince of Wales, making Wales a principality, not a kingdom. The union of England and Wales was brought about by the *Wales Act 1536* during the reign of Henry VIII and there was no statute similar to the *Act of Union 1707* where the flags of two kingdoms formed the new flag of the Kingdom of Great Britain.

The National Assembly for Wales building or Senedd, has 4 flag poles for the purpose of flying flags. Three flag poles are used on a daily basis which fly the Union Flag, the Red Dragon and the European Flag. The fourth pole is used for the Royal Standard, if the Queen visits the building, the national flag of visiting foreign dignitaries and St David's flag on St David's Day.

5. Northern Ireland

The flying of flags in Northern Ireland has remained a highly contentious issue; St Patrick is the patron saint of Ireland and the origins of St Patrick's flag are unclear but it came to be used widely from the late 18th century. The cross saltire of St Patrick consists of a red cross on a white background. St Patrick's flag was superimposed upon the flags of St George and St Andrew to create the Union Flag in 1801. St Patrick's Day takes place on 17 March each year but St Patrick's flag it is not commonly used throughout Ireland. The Union Flag only is flown from UK Government buildings in Northern Ireland.²⁰ Northern Ireland is the only part of the United Kingdom where specific legislation regulates the flying of flags on Government buildings. The Ulster flag and the Cross of St. Patrick have no official status and under the Flags Regulations are not permitted to be flown from Government Buildings.²¹

Following the *Northern Ireland Act 1998*, devolution to the Northern Ireland Assembly and Executive occurred on 2 December 1999. The responsibility for regulating the flying of flags, being a prerogative power, became a devolved matter. During this short period of devolution, two Sinn Féin ministers – Martin McGuinness and Bairbre de Brun – directed that the Union Flag would not be flown from their respective departmental buildings. The

¹⁹ Ibid.

²⁰ DCMS – Days for hoisting flags on government buildings. Available at: <http://www.culture.gov.uk/flagflying/dates.htm>

²¹ HC Deb 14 May 2007 c292-4w

decision not to fly the Union Flag on government buildings was attacked by Unionists. The Northern Ireland Assembly and Executive was suspended on 11 February 2000 and direct rule from Westminster was re-imposed. Several Unionist representative indicated that they would not support the return to power-sharing without an assurance that the Union Flag would be flown from government buildings.²²

On 16 May 2000, a draft Order was laid under the *Northern Ireland Act 2000*, which provided for the suspension of devolved government in Northern Ireland. Paragraph 1(1) of that Act allows for the UK Parliament, during the suspension of the Assembly, to make provision, by Order in Council, for any matter within the legislative competence of the Assembly.²³ The Order gave the Secretary of State for Northern Ireland the power to decide whether the Union Flag would fly on government buildings. The Order was approved by each House of Parliament and came into force on 17 May 2000. The *Flags (Northern Ireland) Order 2000* gave the Secretary of State the power under Article 3(1) 'to make regulations regulating the flying of flags at government buildings' which would remain in force for as long as the Order was in force.²⁴ Article 3(2) defines a "government building" as a building wholly or mainly occupied by members of the Northern Ireland Civil Service.²⁵

The *Flags Regulations (Northern Ireland) 2000* came into force on 11 November 2000. Article 2(1) of the regulations state that 'the Union Flag shall be flown at the government buildings specified in Part I of the Schedule to these Regulations on the days specified in Part II of the Schedule'.²⁶ Part I of the Schedule is a list of specified government buildings on which the Union Flag must be flown and Part II of the Schedule refers to the days on which the Union Flag must be flown (see Appendix A). The flying of flags at government buildings, otherwise stated in the Regulations, is prohibited (Article 9).²⁷

The *Justice (Northern Ireland) Act 2002* contains a provision to include court-houses in the definition of government buildings within the Regulations:

67 Flying of flags at court-houses

(1) In Article 3(1) of the *Flags (Northern Ireland) Order 2000* (SI 2000/1347 (NI 3)) (power to make regulations about the flying of flags at government buildings), insert at the end "and court-houses".

(2) The *Flags Regulations (Northern Ireland) 2000* (S.R.2000 No 347) (which were made in the exercise of that power) apply in relation to court-houses as they apply in relation to the government buildings specified in Part 1 of the Schedule to the Regulations (but subject to any amendment which may be made to the Regulations in the further exercise of that power).

This provision has yet to be implemented.

²² "Assembly rap for flag row minister" 18 January 2000 *Newsletter*

²³ Further information can be found using the House of Commons Information Office Factsheet L8 – Northern Ireland Legislation. Available at: <http://www.parliament.uk/documents/upload/L08.pdf>

²⁴ The *Flags (Northern Ireland) Order 2000*. Available at: <http://www.opsi.gov.uk/si/si2000/20001347.htm>

²⁵ *ibid.*

²⁶ The *Flags Regulations (Northern Ireland) 2000*. Available at: http://www.opsi.gov.uk/sr/sr2000/nisr_20000347_en.pdf

²⁷ *ibid.*

On 8 May 2007, devolution was restored to Northern Ireland with the formation of an Executive. Since devolution, the issue of flags has been jointly dealt with by the Northern Ireland Office and the devolved administration, and the 2000 Order and Regulations remain in force.

The Parliament Building on the Stormont Estate, which houses the Northern Ireland Assembly, is not classified as a Government building, but currently complies with the Regulations and only the Union Flag is flown from the Parliament Building in accordance with Part I (Appendix A) of the Regulations.²⁸

E. Appendix A Days for Hoisting Flags on Government Buildings

Days for Hoisting Flags on Government Buildings 2007

From 8am till sunset

20 January	Birthday of the Countess of Wessex
6 February	Her Majesty's Accession
19 February	Birthday of the Duke of York
1 March	St David's Day (in Wales only, see note 1)
10 March	Birthday of The Earl of Wessex
12 March	Commonwealth Day (second Monday in March)
17 March	St. Patrick's Day (in Northern Ireland only, see note 6)
21 April	Birthday of Her Majesty The Queen
23 April	St George's Day (in England only, see note 1)
9 May	Europe Day (see note 4)
2 June	Coronation Day
10 June	Birthday of The Duke of Edinburgh
16 June	Official Celebration of Her Majesty's Birthday
17 July	Birthday of The Duchess of Cornwall
15 August	Birthday of The Princess Royal
11 November	Remembrance Day (second Sunday, see note 2)
14 November	Birthday of The Prince of Wales
20 November	Her Majesty's Wedding Day
30 November	St Andrew's Day (in Scotland only, see note 1)
Also	The day of the opening of a Session of the Houses of Parliament by Her Majesty (see note 3)

²⁸ HC Deb 9 May 2007 c199w

The day of the prorogation of a Session of the Houses of Parliament by Her Majesty (see note 3)

Notes

1. Where a building has two or more flagstaffs the appropriate National flag may be flown in addition to the Union flag but not in a superior position.
2. Flags should be flown at full mast all day.
3. Flags should be flown on this day even if Her Majesty does not perform the ceremony in person. Flags should only be flown in the Greater London area.
4. The Union flag should fly alongside the European flag. On Government buildings that only have one flagpole, the Union flag should take precedence.
5. If The Queen is to be present in a building, you should get in touch with the Department for Culture, Media and Sport, Architecture and Historic Environment Division, 2-4 Cockspur Street, London SW1Y 5DH. Telephone 020 7211 2381; facsimile 020 7211 6130.
6. The Union flag only should be flown.

18 May 2007²⁹

²⁹ DMCS - Days for Hoisting Flags on Government Buildings 2007. Available at:
<http://www.culture.gov.uk/flagflying/dates.htm>