



House of Commons

Thursday 14 June 2018

PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 9 to 13 and NC5

IVORY BILL

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [12 June 2018].

Sue Hayman
Luke Pollard
Thangam Debbonaire

Clause 3, page 2, line 29, leave out “a person” and insert “An owner of an item when”

Member’s explanatory statement

This amendment would clarify that only the owner of an item can apply for an exemption.

1

Sue Hayman
Luke Pollard
Thangam Debbonaire

Clause 3, page 3, line 5, at end insert—

“(2A) Where an application is referred to a prescribed institution, the institution must notify the Secretary of State of any intention that the institution may have to purchase or hire the item.”

Member’s explanatory statement

This amendment requires a prescribed institution to declare any interest that it may have in acquiring the item, in order to make the Secretary of State aware of any conflicts of interest.

2

 Ivory Bill, *continued*

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

3

Clause 3, page 3, line 13, at end insert “, and

- (d) notify the Secretary of State of any interests, whether commercial, pecuniary, or personal, that the assessor may hold in respect of—
 - (i) the person applying for an exemption certificate, and
 - (ii) any person known to by the assessor to be seeking to buy or hire the item.

(3A) If the Secretary of State believes that any interests declared under subsection (3)(d) create a conflict of interest, the Secretary of State may deem the assessor to not be nominated by the prescribed institution, and shall notify the institution accordingly.”

Member’s explanatory statement

This amendment requires the assessor to make a declaration of their interests, and grants a power to the Secretary of State to deem an assessor to not have been nominated if the Secretary of State believes there to be a conflict of interest.

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

4

Clause 4, page 4, line 8, at end insert—

“(5A) Subject to subsection (5B), the Secretary of State may not issue a replacement certificate in respect of an item if a replacement certificate has previously been issued in respect of the same item.

(5B) Subsection (5A) does not apply where—

- (a) an exemption certificate has been applied for under section 3, and issued, in respect of the item since the last instance of a replacement certificate being issued,
- (b) the owner of the item has changed since the last instance of a replacement certificate being issued, or
- (c) it seems to the Secretary of State that there are extraneous circumstances that warrant issuing a further replacement certificate.”

Member’s explanatory statement

This amendment creates a limit of one replacement certificate being issued for an item. After one certificate is issued, a further replacement certificate can only be issued if a new certificate is applied for under section 3, or if the owner of the item changes, or if there are extraneous circumstances that warrant issuing a replacement certificate.

Ivory Bill, *continued*

Sue Hayman
Luke Pollard
Thangam Debbonaire

5

Clause 6, page 5, line 6, at end insert—

- “(1A) In this section, “portrait miniature” means a portable portrait that is—
- (a) of no more than 204mm in height,
 - (b) of no more than 153mm in width, and
 - (c) made by painting on to a sheet of ivory no more than 5mm thick.”

Member’s explanatory statement

This amendment defines a ‘portrait miniature’ for the purpose of the exemption.

Sue Hayman
Luke Pollard
Thangam Debbonaire

6

Clause 9, page 5, line 31, leave out from “that” to end of line 33

Member’s explanatory statement

This amendment would only permit acquisitions by qualifying museums to be exempt if the item is also registered under section 10, in all circumstances.

Sue Hayman
Luke Pollard
Thangam Debbonaire

7

Clause 10, page 6, line 34, at end insert—

- “(1A) In the case an exemption under section 7 or 8, an item only satisfies the relevant exemption conditions if the volume of ivory in the item relative to the total volume of the material of which the item is made has been calculated in accordance with a method provided in guidance by the Secretary of State.”

Member’s explanatory statement

This amendment requires a person registered an pre-1947 item with less than 10% ivory content, or a pre-1975 musical instrument with less than 20% ivory content, to calculate the ivory content according to a method set by the Secretary of State in guidance.

Ivory Bill, *continued*

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

9

- ★ Clause 12, page 7, line 40, at end insert—

“(1A) For the purposes of subsection (1), a person facilitates a breach of the prohibition if he or she, whilst not directly engaged in the process of a sale, acts in such a way as to allow that sale, or other form of dealing, to occur.”

Member’s explanatory statement

This amendment defines ‘facilitate’, which is not defined in the Bill, using the text from the Explanatory Notes to the Bill.

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

10

- ★ Clause 12, page 8, line 1, leave out subsection (2)

Member’s explanatory statement

This amendment would make the offences under section 12 strict liability offences. The defence of having taken all reasonable precautions and exercised all due diligence would remain, but the burden of proof would be shifted to the person on proving this, rather than on prosecutors proving the person knew the item was ivory.

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

13

- ★ Schedule 1, page 31, line 22, at end insert—

“(d) the circumstances in which the Secretary of State would consider criminal sanctions more appropriate than civil sanctions.”

Member’s explanatory statement

This amendment requires the Secretary of State’s guidance under paragraph 21 to state in what circumstances criminal sanctions are considered more appropriate than civil sanctions.

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

11

- ★ Clause 35, page 20, line 40, leave out “an elephant” and insert “a hippopotamus, elephant, killer whale, narwhal, sperm whale, or walrus.”

Member’s explanatory statement

This amendment would include in the definition of ivory all the ivory-bearing species listed in an Appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Ivory Bill, continued

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

12

★ Clause 35, page 21, line 3, leave out from “subsection” to the end of line 5

Member’s explanatory statement

This amendment would allow the Secretary of State to make regulations in the future that would include any ivory species, even if not listed in an appendix to CITES.

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

NC1

To move the following Clause—

“Reporting requirements: Exemption certificates

- (1) As soon as reasonably practicable after the end of each calendar year, the Secretary of State must—
 - (a) prepare a report on applications for exemption certificates that have been granted during that year, and—
 - (i) lay a copy of that report before Parliament, and
 - (ii) publish the report.
- (2) Subsection (1) does not apply in relation to a year if section 3 of this Act has not been in force at any time in that year.
- (3) A report prepared under this section must include the following in respect of each exemption certificate granted—
 - (a) the description or descriptions provided in accordance with section 3(1)(b) by the person that applied for the exemption certificate,
 - (b) the photograph or photographs provided in accordance with section 3(1)(c) by the person that applied for the exemption certificate,
 - (c) when the certificate was granted, and
 - (d) any other information that the Secretary of State considers appropriate.”

Member’s explanatory statement

This new clause requires an annual report to be published with details and pictures of all items that are granted an exemption certificate under section 3.

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

NC2

To move the following Clause—

“Report on the international ivory market

- (1) Within 12 months of section 1 of this Act coming into force, the Secretary of State must publish and lay before each House of Parliament a report on the international ivory market.

Ivory Bill, continued

- (2) The report must as far as practicable analyse the impact of this Act on the demand for ivory in the United Kingdom and in other countries.
- (3) The report must consider—
 - (a) the impact on nations or communities that generate income from ivory of—
 - (i) the provisions of this Act, and
 - (ii) international agreements related to the ivory trade, and
 - (b) the work of the Department for International Development in—
 - (i) reducing the global demand for ivory, and
 - (ii) mitigating any negative impact of the provisions of this Act on nations or communities that generate an income from ivory.”

Member’s explanatory statement

This new clause would require a report to be laid before each House of Parliament on the international ivory market, including how the Department for International Development is working to reduce global demand for ivory.

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

NC3

To move the following Clause—

“Assessment of enforcement resources

- (1) Within 12 months of section 12 of this Act coming into force, the Secretary of State must make an assessment on the resources available to enforce the prohibition.
- (2) The report shall consider in particular—
 - (a) the resources allocated or planned to be allocated towards enforcing the prohibition,
 - (b) the potential impact of any change in resources so allocated or planned to be allocated, and
 - (c) the impact on other law or border enforcement activities of the resources so allocated or planned to be allocated.
- (3) The Secretary of State shall lay a report of the assessment under this section before each House of Parliament as soon as practicable after its completion.”

Member’s explanatory statement

This new clause requires an assessment to be made and laid before Parliament regarding the level of resources allocated or proposed to be allocated to enforcing the prohibition against ivory dealing.

Ivory Bill, continued

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

NC4

To move the following Clause—

“Record of item provenance

- (1) The Secretary of State shall make arrangements for persons—
 - (a) applying for an exemption certificate under section 3, or
 - (b) registering an item under section 10
 to be able to associate the item to which the application or registration relates with previous registrations or previously issued exemption certificates.
- (2) Where an exemption certificate is issued in respect of an item, or where an item has been previously registered, and the Secretary of State is satisfied that the item has previously been registered or had exemption certificates issued in respect of it, the exemption certificate or registration shall record all previous exemption certificates issued or registrations made in respect of that item, including the dates on which any certificates were issued or registrations made.”

Member’s explanatory statement

This new clause allows for exemption certificates or registrations to record all previous exemption certificates or registrations issued for that item, in order to establish a record of each item’s ownership and provenance.

Sue Hayman
 Luke Pollard
 Thangam Debbonaire

NC5

★ To move the following Clause—

“Power to require service providers to block access to material that facilitates a breach of the prohibition

- (1) Where a person (“the non-complying person”) is making material available on the internet to persons in the United Kingdom in order to—
 - (a) breach the prohibition,
 - (b) cause the prohibition to be breached, or
 - (c) facilitate a breach of the prohibition,
 the Secretary of State may give a notice under this subsection to any internet service provider.
- (2) The notice must—
 - (a) identify the non-complying person in such manner as the Secretary of State considers appropriate,
 - (b) require the internet service provider—
 - (i) to take steps specified in the notice, or
 - (ii) (if no such steps are specified) to put in place arrangements that appear to the provider to be appropriate,
 so as to prevent persons in the United Kingdom from being able to access the offending material using the service it provides,

Ivory Bill, continued

- (c) provide such information as the Secretary of State considers may assist the internet service provider in complying with any requirement imposed by the notice,
 - (d) provide such further particulars as the Secretary of State considers appropriate.
- (3) The notice may specify the time by which the internet service provider must have complied with any requirement imposed by the notice.
 - (4) The notice may be varied or revoked by a further notice under subsection (1).
 - (5) It is the duty of an internet service provider to comply with any requirement imposed on it by a notice under subsection (1).
 - (6) That duty is enforceable in civil proceedings by the Secretary of State—
 - (a) for an injunction,
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
 - (c) for any other appropriate relief or remedy.
 - (7) In this section “the offending material”, in relation to a non-complying person, means the material which the Secretary of State considers is being made available in order to—
 - (a) breach the prohibition,
 - (b) cause the prohibition to be breached, or
 - (c) facilitate a breach of the prohibition.”

Member’s explanatory statement

This new clause ensures that ISPs may be requested by the Secretary of State to block access to online material that facilitates a breach of the prohibition, and that the Secretary of State may obtain court orders to ensure that ISPs comply with such a request.

ORDER OF THE HOUSE [4 JUNE 2018]

That the following provisions shall apply to the Ivory Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 21 June 2018.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Ivory Bill, continued*Other proceedings*

7. Any other proceedings on the Bill may be programmed.

ORDER OF THE COMMITTEE [12 JUNE 2018]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 12 June) meet—
- (a) at 1.30 pm on Tuesday 12 June;
 - (b) at 11.30 am and 2.00 pm on Thursday 14 June;
 - (c) at 9.25 am and 2.00 pm on Tuesday 19 June;
 - (d) at 11.30 am and 2.00 pm on Thursday 21 June;
- (2) the Committee shall hear oral evidence on Tuesday 12 June in accordance with the following Table:

TABLE

<i>Time</i>	<i>Witness</i>
Until no later than 10.25 am	World Wildlife Fund; Born Free; International Fund for Animal Welfare
Until no later than 11.25 am	Stop Ivory; Tusk Trust
Until no later than 2.15 pm	National Wildlife Crime Unit; CITES Border Force team, Heathrow
Until no later than 3.00 pm	British Art Market Federation; British Antique Dealers' Association; Philip Mould & Company; Music Industries Association; Musicians' Union
Until no later than 3.45 pm	British Museum; Victoria and Albert Museum

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 13; Schedule 1; Clauses 14 to 19; Schedule 2; Clauses 20 to 42; new Clauses; new Schedules; remaining proceedings on the Bill;
- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 21 June.

NOTICES WITHDRAWN

The following Notices were withdrawn on 13 June 2018: