

Ivory Bill

LORDS AMENDMENTS TO THE IVORY BILL

[The page and line references are to HL Bill 119, the bill as first printed for the Lords]

Clause 2

- 1 Page 2, line 18, leave out “guidance issued” and insert “regulations made”
- 2 Page 2, line 18, leave out “Secretary of State” and insert “appropriate national authority”
- 3 Page 2, line 21, leave out “Secretary of State” and insert “appropriate national authority”
- 4 Page 2, line 21, leave out “his or her” and insert “the authority’s”

Clause 3

- 5 Page 2, line 39, leave out “guidance issued” and insert “regulations made”
- 6 Page 2, line 40, leave out “Secretary of State” and insert “appropriate national authority”

Clause 4

- 7 Page 4, line 21, leave out subsection (8)
- 8 Page 4, line 28, leave out “guidance issued” and insert “regulations made”
- 9 Page 4, line 29, leave out “Secretary of State” and insert “appropriate national authority”

Clause 5

- 10 Page 4, line 34, after “appeal” insert “to the First-tier Tribunal”
- 11 Page 4, line 36, at end insert –
 - “() An appeal under subsection (1)(b) may be on the ground –
 - (a) that the decision was based on an error of fact,
 - (b) that the decision was wrong in law, or
 - (c) that the decision was unreasonable,

or on any other grounds that are prescribed by regulations made by the appropriate national authority.

- () On an appeal under subsection (1)(b), the First-tier Tribunal may –
 - (a) confirm the Secretary of State’s decision to refuse or revoke the exemption certificate,
 - (b) require the Secretary of State to issue an exemption certificate, or to cancel the decision to revoke an existing exemption certificate, or
 - (c) remit the decision to refuse or revoke the exemption certificate to the Secretary of State for reconsideration.”

12 Page 4, line 37, leave out “Secretary of State” and insert “appropriate national authority”

13 Page 4, line 37, after “make” insert “further”

14 Page 4, line 39, leave out subsection (4) and insert –

“(4) The Secretary of State may by regulations make provision requiring an appellant to pay a fee of a prescribed amount.”

Clause 9

15 Page 6, line 1, leave out paragraph (a) and insert –

- “(a) in the case of a museum in England, the Channel Islands or the Isle of Man, it is shown as being accredited in a list published by or on behalf of Arts Council England;
- (aa) in the case of a museum in Wales, it is shown as being accredited in a list published by or on behalf of the Welsh Government;
- (ab) in the case of a museum in Scotland, it is shown as being accredited in a list published by or on behalf of the Scottish Ministers;
- (ac) in the case of a museum in Northern Ireland, it is shown as being accredited in a list published by or on behalf of the Northern Ireland Museums Council;”

16 Page 6, line 10, leave out “Secretary of State” and insert “appropriate national authority”

17 Page 6, line 11, after “(a)” insert “, (aa), (ab), (ac)”

Clause 10

18 Page 6, line 37, leave out “guidance issued” and insert “regulations made”

19 Page 6, line 38, leave out “Secretary of State” and insert “appropriate national authority”

Clause 11

20 Page 7, line 32, leave out subsection (5)

Clause 15

21 Page 9, line 38, after “powers” insert “on police or customs officers”

22 Page 9, line 39, leave out “sections 17 and” and insert “section”

Clause 16

- 23 Page 10, line 22, after “powers” insert “on police or customs officers”
24 Page 10, line 23, leave out “sections 17 and” and insert “section”

Clause 17

- 25 Leave out Clause 17

Clause 18

- 26 Page 11, line 17, leave out “or an accredited civilian officer”
27 Page 11, line 21, leave out “or an accredited civilian officer”
28 Page 11, line 23, leave out “, an accredited civilian officer”
29 Page 11, line 25, leave out “or an accredited civilian officer”
30 Page 11, line 32, leave out paragraph (d)
31 Page 12, line 8, leave out “or accredited civilian officer”
32 Page 12, line 9, at end insert –
 “(7) In this Act “premises” includes any place and, in particular, includes –
 (a) a vehicle, vessel or aircraft;
 (b) a tent or moveable structure.”

Clause 19

- 33 Page 12, line 18, leave out “or an accredited civilian officer”
34 Page 12, line 19, leave out “or accredited civilian officer”
35 Page 12, line 22, leave out “or accredited civilian officer”
36 Page 12, line 25, leave out “or an accredited civilian officer”
37 Page 12, line 28, leave out “or accredited civilian officer”

Clause 20

- 38 Page 13, line 2, leave out “an” and insert “a police or customs”
39 Page 13, line 3, leave out “, 17”
40 Page 13, line 4, leave out subsections (2) to (4) and insert –
 “() The officer may carry out any examination or measurement of anything on
 the premises that the officer thinks is or may be relevant evidence.”
41 Page 13, line 18, leave out “, 17”

Clause 21

- 42 Page 13, line 22, leave out “an” and insert “a police or customs”
43 Page 13, line 23, leave out “, 17”

Clause 22

44 Page 14, line 4, leave out “An” and insert “A police or customs”

45 Page 14, line 4, leave out “, 17”

After Clause 22

46 Insert the following new Clause –

“Accredited civilian officers: powers of entry

- (1) An accredited civilian officer may on giving reasonable notice –
 - (a) enter premises that the accredited civilian officer reasonably thinks may be used in connection with dealing in ivory (including any item that is made of ivory or has ivory in it) for the purpose of assessing compliance with the provisions of this Act, or
 - (b) enter premises on which the officer has reasonable grounds to suspect that there is relevant evidence.
- (2) In this Act “accredited civilian officer” means an officer of the Secretary of State who is authorised by the Secretary of State for the purposes of this Act.
- (3) A notice under this section must –
 - (a) be in writing,
 - (b) be given to the occupier of the premises,
 - (c) set out the purpose of the proposed entry, and
 - (d) explain the effect of section 27 (offences of obstruction).
- (4) The requirement in subsection (3)(b) may be complied with by delivering or leaving the notice at the premises or sending it there by post.
- (5) This section –
 - (a) does not authorise the entry into premises used wholly or mainly as a dwelling;
 - (b) authorises entry only at a reasonable time.”

47 Insert the following new Clause –

“Other powers of accredited civilian officers

- (1) This section applies where –
 - (a) an accredited civilian officer enters premises under section (*Accredited civilian officers: powers of entry*), or
 - (b) an accredited civilian officer who is lawfully on premises has reasonable grounds to suspect that there is relevant evidence on those premises.
- (2) The officer may carry out any examination or measurement of anything on the premises that the officer thinks is or may be relevant evidence.
- (3) The officer may require any person on the premises to produce any document or record in the person’s possession or control that the officer thinks is or is likely to be relevant to –
 - (a) the question whether a relevant offence has been committed, or
 - (b) the investigation of a relevant offence.

- (4) The officer may –
 - (a) seize and detain or remove any item found on the premises;
 - (b) take copies of or extracts from any document or record found on the premises.
- (5) An officer to whom a document or record has been produced in response to a requirement under subsection (3) may –
 - (a) seize and detain or remove the document or record;
 - (b) take copies of or extracts from the document or record.
- (6) The powers under subsections (4) and (5) may be exercised only –
 - (a) for the purposes of determining whether a relevant offence has been committed, or
 - (b) in relation to an item that the officer concerned reasonably believes to be relevant evidence.
- (7) The officer may require any person on the premises to provide any help or facilities, with respect to matters under the persons’s control, that the officer considers would facilitate the exercise of a power conferred on the officer by this section.
- (8) This section –
 - (a) does not confer power to search a person;
 - (b) does not confer power to seize an item that is an excluded item (see section 23).
- (9) Subsections (3) and (4) of section 21 apply for the purposes of this section as they apply for the purposes of that one.”

Clause 23

48 Page 14, line 24, leave out “section 22” and insert “sections 22 and (*Other powers of accredited civilian officers*)”

Clause 24

49 Page 15, line 5, after “22” insert “or (*Other powers of accredited civilian officers*)”

Clause 25

50 Page 15, line 25, after “22” insert “or (*Other powers of accredited civilian officers*)”

Clause 26

51 Page 16, line 7, leave out “17” and insert “(*Accredited civilian officers: powers of entry*)”

Clause 27

52 Page 16, line 39, leave out “or accredited civilian officer”

Clause 28

53 Page 17, line 6, after “22” insert “or (*Other powers of accredited civilian officers*)”

After Clause 33

54 Insert the following new Clause –

“Contracts of insurance etc

- (1) A transaction under which a person acquires an item in pursuance of an existing contract of insurance is not a purchase or sale of the item for the purposes of this Act.
- (2) A transaction under which an item –
 - (a) is acquired by a regulated insurer acting in the course of the insurer’s business as such, or
 - (b) is acquired, in pursuance of a regulated insurance contract, by a person who is or was an insured person in relation to the item under that contract,
 is not a purchase or sale of the item for the purposes of this Act.
- (3) In this section –
 - “existing contract of insurance” means a contract of insurance entered into before the day on which section 1 comes into force;
 - “insurance” includes reinsurance;
 - “regulated insurance contract” means a contract of insurance effected or carried out by a regulated insurer;
 - “regulated insurer” means a person who has permission to effect or carry out contracts of insurance under Part 4A of the Financial Services and Markets Act 2000.”

Clause 35

55 Page 21, line 4, leave out “Secretary of State” and insert “appropriate national authority”

56 Page 21, line 7, after “regulations” insert “made by the Secretary of State”

57 Page 21, line 10, at end insert –

- “() A statutory instrument containing regulations made by the Welsh Ministers under subsection (2) (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before the National Assembly for Wales and approved by a resolution of the Assembly.
- () Regulations made by the Scottish Ministers under subsection (2) are subject to the affirmative procedure.
- () Regulations made by the Northern Ireland department under subsection (2) may not be made unless a draft of the instrument has been laid before the Northern Ireland Assembly and approved by a resolution of the Assembly.”

Clause 36

58 Page 21, line 19, leave out “17(7)” and insert “(Accredited civilian officers: powers of entry)(2)”

- 59 Page 21, line 20, at end insert—
“the appropriate national authority” has the meaning given by section 37(1A) and (1B);”
- 60 Page 21, line 36, at end insert—
“the Northern Ireland department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;”
- 61 Page 21, line 41, leave out “17(7)” and insert “18(7)”

Clause 37

- 62 Page 22, line 24, at end insert—
“(1A) In this Act “the appropriate national authority” means—
(a) the Secretary of State, for regulations that do not apply in relation to Wales, Scotland or Northern Ireland;
(b) the Welsh Ministers, for regulations that apply only in relation to Wales;
(c) the Scottish Ministers, for regulations that apply only in relation to Scotland;
(d) the Northern Ireland department, for regulations that apply only in relation to Northern Ireland.
- (1B) But in the case of regulations that apply in relation to England and any other part of the United Kingdom, or in relation to any other part of the United Kingdom and not England, the appropriate authority is the Secretary of State if each necessary consent is given.
The “necessary consent” is—
(a) the consent of the Welsh Ministers if the regulations apply in relation to Wales;
(b) the consent of the Scottish Ministers if the regulations apply in relation to Scotland;
(c) the consent of the Northern Ireland department if the regulations apply in relation to Northern Ireland.
- (1C) The Secretary of State must consult the Welsh Ministers, the Scottish Ministers and the Northern Ireland department before making regulations prescribing a fee under section 3(1)(h), 4(7)(b), 5(4) or 10(1)(g).”
- 63 Page 22, line 25, leave out subsection (2) and insert—
“() A power to make regulations under this Act—
(a) is exercisable by statutory instrument, in the case of regulations made by the Secretary of State or the Welsh Ministers;
(b) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)), in the case of regulations made by the Northern Ireland department.”
- 64 Page 22, line 26, after “regulations” insert “made by the Secretary of State”
- 65 Page 22, line 28, at end insert—
“() A statutory instrument containing regulations made by the Welsh Ministers under this Act, other than regulations under section 35(2), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

- () Regulations made by the Scottish Ministers under this Act, other than regulations under section 35(2), are subject to the negative procedure.
- () Regulations made by the Northern Ireland department under this Act, other than regulations under section 35(2), are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

66 Page 22, line 29, leave out subsection (4)

Schedule 1

67 Page 29, line 6, leave out “Secretary of State” and insert “appropriate national authority”

68 Page 29, line 14, leave out “Secretary of State” and insert “appropriate national authority”

69 Page 29, line 15, leave out “Secretary of State” and insert “authority”

70 Page 29, line 17, leave out “Secretary of State” and insert “authority”

71 Page 29, line 18, leave out “Secretary of State” and insert “authority”

72 Page 29, line 19, leave out “he or she” and insert “the authority”

73 Page 32, line 11, leave out “consult any persons” and insert “consult –
 (a) the Welsh Ministers, the Scottish Ministers and the Northern Ireland department, and
 (b) any other persons”.

Schedule 2

74 Page 34, line 9, leave out paragraph (d)

75 Page 35, line 36, leave out “or an accredited civilian officer”

76 Page 36, line 3, leave out “or an accredited civilian officer”

77 Page 36, line 7, leave out “or accredited civilian officer”

78 Page 36, line 18, leave out “or accredited civilian officer”

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