

Cultural Property (Armed Conflicts) Bill [HL]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 2

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

- 1 Page 1, line 18, at end insert “and, consistent with this definition, “cultural property” shall be interpreted in the widest sense in order to reflect the understanding of cultural property in the modern age”

Clause 3

THE EARL OF CLANCARTY
LORD STEVENSON OF BALMACARA

- 2 Page 2, line 4, after “offence” insert “of violation of the Convention or the Second Protocol”

Clause 4

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

- 3 Page 2, line 42, leave out paragraphs (a) and (b) and insert—
- “(a) aiding, abetting, counselling or procuring the commission of that offence,
 - (b) inciting a person to commit that offence,
 - (c) attempting or conspiring to commit that offence, or
 - (d) an offence under section 4(1) or 5(1) of the Criminal Law Act 1967 (assisting an offender or concealing the commission of an offence) where the relevant offence mentioned there is an offence under section 3 of this Act.”

Clause 4 - continued

- 4 Page 3, line 7, leave out paragraphs (a) and (b) and insert –
- “(a) aiding, abetting, counselling or procuring the commission of that offence,
 - (b) inciting a person to commit that offence,
 - (c) attempting or conspiring to commit that offence, or
 - (d) an offence under section 4(1) or 5(1) of the Criminal Law Act (Northern Ireland) 1967 (assisting an offender or concealing the commission of an offence) where the relevant offence mentioned there is an offence under section 3 of this Act.”

Clause 5

LORD TOUHIG
LORD STEVENSON OF BALMACARA

- 5 Page 4, line 27, at end insert –
- “() The Secretary of State shall ensure that the military guidance in this section is reflected in the Joint Service Manual of the Law of Armed Conflict.”
- 6 Page 4, line 27, at end insert –
- “() Once in each year after the coming into force of this section, the Secretary of State must lay before Parliament a list of all ranking military commanders who are responsible for a section 3 offence committed by forces under the commander’s effective command, under subsection (2).”

After Clause 5

LORD TOUHIG
LORD STEVENSON OF BALMACARA

- 7 Insert the following new Clause –
- “Embedded forces**
- This Act applies to a person subject to UK service jurisdiction serving under the military command of the armed forces of another country.”
- 8 Insert the following new Clause –
- “Private military contractors**
- This Act applies to private military contractors and individuals within private military contractors.”

After Clause 5 - continued

9 Insert the following new Clause—

“Military measures

At the end of the period of one year following the passing of this Act, the Secretary of State must prepare, publish and lay before each House of Parliament a report setting out how the Government have, in order to avoid the committing of offences under section 3—

- (a) introduced into military regulations the requirements of Article 7 of the Convention; and
- (b) taken steps to foster in the members of the armed forces a spirit of respect for cultural property.”

Clause 6

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

The above-named Lords give notice of their intention to oppose the Question that Clause 6 stand part of the Bill.

Clause 7

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

10 Page 4, line 38, at end insert—

“(c) in Scotland, only by the Lord Advocate for Scotland.”

The above-named Lords give notice of their intention to oppose the Question that Clause 7 stand part of the Bill.

After Clause 7

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

11 Insert the following new Clause—

“Conflicts not of an international character

The Secretary of State must, within one year of the passing of this Act, prepare and publish a report on the steps taken by the Government to ensure the effective implementation of Article 19 of the Convention (conflicts not of an international character).”

Clause 8

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

12 Page 5, line 5, at end insert –

“() Where cultural property is in a digital form the cultural emblem may be displayed in a digital format.”

Clause 9

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

13 Page 5, line 20, at end insert –

“(c) in Scotland, only by or with the consent of the Lord Advocate for Scotland.”

Clause 10

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

14 Page 5, line 30, at end insert –

“(4) At the end of the period of one year following the passing of this Act, the Secretary of State must prepare and publish a report outlining the criteria that will be used by the appropriate national authority to grant permission of use of the cultural emblem.”

Clause 12

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

The above-named Lords give notice of their intention to oppose the Question that Clause 12 stand part of the Bill.

Clause 14

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

15 Page 7, line 8, at end insert –

“() The court may not order the destruction of an article unless expert evidence has been presented to the court giving permission to do so.”

Clause 16

THE EARL OF KINNOULL

16 Page 8, line 8, at end insert –

“(7) The Secretary of State may by regulations made by statutory instrument specify what reasonable procedures must be followed in order to establish whether any object is unlawfully exported cultural property.

Clause 16 - continued

- (8) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament.”

Clause 17

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

17 Page 8, line 42, at end insert –

- “() Cultural property for sale originating from war zones or areas of conflict shall require those responsible for the sale to assume that an item has been unlawfully exported and take all necessary steps accordingly.”

After Clause 17

THE EARL OF CLANCARTY
LORD REDESDALE
BARONESS BONHAM-CARTER OF YARNBURY

18 Insert the following new Clause –

“Unlawfully exported cultural property: duty to provide information

- (1) Auctioneers and traders within the United Kingdom have a duty to provide buyers and potential buyers of items of cultural property (including antiques, cultural artefacts and artworks) with the information they need to make a decision as to whether the item has been unlawfully exported within the meaning of section 17.
- (2) In carrying out the duty under subsection (1), auctioneers must provide every buyer or potential buyer of an item of cultural property with –
 - (a) information on the identity of the seller of the item, and
 - (b) as much information on the history of the item as the seller is reasonably able to provide.
- (3) Subsections (1) and (2) apply in cases where an auctioneer is the owner of the item.
- (4) In carrying out the duty under subsection (1), traders must provide every buyer or potential buyer of an item of cultural property with –
 - (a) information on the identity of the previous owner of the item, and
 - (b) as much information on the history of the item as the trader is reasonably able to provide,
 where the item is valued at or over an amount specified by the Secretary of State by regulations.
- (5) Any person in possession of an item of cultural property that is valued at, or being sold for an amount specified by the Secretary of State by regulations, and who wishes to dispose of that item, must provide the item with an object passport in order to indicate whether or not the item has been unlawfully exported within the meaning of section 17.
- (6) The object passport must include, but is not limited to including, the following information –

After Clause 17 - continued

- (a) the names and addresses of all previous owners;
 - (b) the date on which the item was imported into the United Kingdom; and
 - (c) the dates on which the item was exported to other countries.
- (7) Regulations made under this section must be made by statutory instrument.
- (8) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Clause 18

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

19 Page 9, line 10, at end insert “provided it is in response to new evidence”

After Clause 18

LORD ROSSER
LORD STEVENSON OF BALMACARA

20 Insert the following new Clause—

“United Kingdom Border Force: code of practice

- (1) The Secretary of State shall publish, and lay before Parliament, a code of practice for Border Force employees on the handling of, and training and enforcement practices relating to, cultural property covered by this Act.
- (2) At the end of the period of one year after the passing of this Act, the Secretary of State shall publish a report outlining whether and how practice at the United Kingdom Border Force has changed in response to the passing of this Act, and the code of practice.”

Clause 19

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

21 Page 9, line 13, at end insert “or reimported”

Clause 21

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

22 Page 9, line 36, at end insert—

- “(4) At the time that a court order is made, the court must publish details of who is responsible for meeting the costs of compensation and such other details as are considered appropriate.”

Clause 22

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

- 23 Page 10, line 5, at end insert –
“(e) make public the location and conditions of its storage.”

Clause 23

LORD ROSSER
LORD STEVENSON OF BALMACARA

- 24 Page 10, line 20, leave out “constable” and insert “senior police officer”

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

- 25★ Page 11, line 2, at end insert –
“() For the avoidance of doubt, a warrant under this section may not be issued in respect of the Parliamentary estate.”

Clause 24

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

- 26 Page 11, line 24, at end insert –
“() An order under this section may, for example –
(a) require it to be kept at a particular location;
(b) stipulate conditions under which it must be kept;
(c) require or authorise a person to take steps for its conservation;
(d) make public the location and conditions of its storage.”

After Clause 24

LORD ROSSER
LORD STEVENSON OF BALMACARA

- 27 Insert the following new Clause –
“Retention of property in custody of Border Force
(1) This section applies to property that –
(a) has been seized for a purpose connected with the investigation or prosecution of a suspected offence under section 17, and
(b) is in the custody of the Border Force.
(2) If the property ceases to be needed for that purpose, the Border Force may apply to a justice for an order that the property must be retained by the Border Force pending –
(a) forfeiture of the property under section 20, or
(b) return or disposal of the property under section 27.

After Clause 24 - continued

- (3) The justice may make the order if satisfied that there are reasonable grounds for suspecting that the property may be liable to forfeiture under section 19 (and in accordance with section 20).
- (4) When the Border Force has custody of the property following the making of an order for its retention, it must give notice of the order to any person who, to his or her knowledge, owned the property at the time the order was made.
- (5) An order under this section may, for example—
 - (a) require it to be kept at a particular location;
 - (b) stipulate conditions under which it must be kept;
 - (c) require or authorise a person to take steps for its conservation;
 - (d) make public the location and conditions of its storage.
- (6) It is lawful for property to which this section applies to be retained by the Border Force—
 - (a) pending the making or determination of an application under subsection (2), or
 - (b) in accordance with an order under subsection (3).
- (7) The following do not apply to property retained in reliance on subsection (6)—
 - (a) the Police (Property) Act 1897 (property seized in the investigation of an offence);
 - (b) section 31 of the Police (Northern Ireland) Act 1998 (which makes similar provision in Northern Ireland).
- (8) In this section “justice” means—
 - (a) in England and Wales, a justice of the peace,
 - (b) in Scotland, a sheriff or summary sheriff, and
 - (c) in Northern Ireland, a lay magistrate.”

Clause 25

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

The above-named Lords give notice of their intention to oppose the Question that Clause 25 stand part of the Bill.

Clause 26

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

The above-named Lords give notice of their intention to oppose the Question that Clause 26 stand part of the Bill.

Clause 28

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

The above-named Lords give notice of their intention to oppose the Question that Clause 28 stand part of the Bill.

After Clause 28

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

28 Insert the following new Clause—

“Safeguarding cultural property

At the end of the period of one year following the passing of this Act, the Secretary of State shall prepare a report to Parliament on how the Government have safeguarded cultural property situated within the UK against the foreseeable effect of an armed conflict, in accordance with Article 3 of the Convention.”

Before Clause 29

LORD REDESDALE
BARONESS BONHAM-CARTER OF YARNBURY

29 Insert the following new Clause—

“Annual report on Convention

- (1) Within one year of the passing of this Act, and annually thereafter, the Secretary of State must prepare and publish a report on the operation of the Convention, and the First and Second Protocol, in relation to the United Kingdom.
- (2) A report under subsection (1) must include an assessment of the implementation and use of the provisions of this Act.
- (3) A report under subsection (1) must be laid before each House of Parliament.”

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

30★ Insert the following new Clause—

“Cultural Protection Fund

At the end of the period of one year following the passing of this Act, and every two years thereafter, the Secretary of State must lay a report before both Houses of Parliament on the work of the Cultural Protection Fund in supporting the implementation of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 and the Protocols to that Convention of 1954 and 1999.”

Clause 32

LORD STEVENSON OF BALMACARA
LORD COLLINS OF HIGHBURY

31 Page 15, line 16, at end insert—

“() The day or days which the Secretary of State appoints in accordance with subsection (2) shall each be one of the Common Commencement dates.”

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24 June 2016
