

Ivory Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

LORD CORMACK

- 1 Page 1, line 8, leave out paragraph (d)
- 2 Page 1, line 21, leave out “ivory in it” and insert “more than 20% of ivory in the case of furniture or other objects and 30% in the case of musical instruments”

Clause 2

LORD DE MAULEY
BARONESS NEVILLE-ROLFE

- 3 Page 2, line 11, leave out “pre-1918” and insert “pre-1947”

Member’s explanatory statement

Without this amendment, Art Deco objects of outstandingly high artistic, cultural or historical value, for example, will not be eligible for an exemption certificate.

- 4 Page 2, line 12, leave out “outstandingly”

Member’s explanatory statement

This amendment would change the condition for the issue of an exemption certificate to be that objects containing ivory should be of high artistic, cultural or historical value.

LORD CORMACK

- 5 Page 2, line 12, leave out “outstandingly high”
- 6 Page 2, line 17, leave out “an important” and insert “a significant”

Clause 2 - continued

LORD GARDINER OF KIMBLE

7 Page 2, line 18, leave out “guidance issued” and insert “regulations made”

Member’s explanatory statement

Clause 2(3)(c) currently allows the Secretary of State to use guidance to specify matters that must be taken into account when considering whether an ivory item is of outstandingly high artistic, cultural or historical value. This amendment requires these matters to be specified in regulations instead.

8 Page 2, line 18, leave out “Secretary of State” and insert “appropriate national authority”

Member’s explanatory statement

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

9 Page 2, line 21, leave out “Secretary of State” and insert “appropriate national authority”

Member’s explanatory statement

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

10 Page 2, line 21, leave out “his or her” and insert “the authority’s”

Member’s explanatory statement

This amendment is consequential on the Minister’s first amendment at page 2, line 21.

Clause 3

LORD GARDINER OF KIMBLE

11 Page 2, line 39, leave out “guidance issued” and insert “regulations made”

Member’s explanatory statement

Clause 3(1)(g) currently allows the Secretary of State to use guidance to specify information that a person applying for an exemption certificate must provide. This amendment requires the information to be specified in regulations instead.

12 Page 2, line 40, leave out “Secretary of State” and insert “appropriate national authority”

Member’s explanatory statement

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

Clause 4

BARONESS JONES OF WHITCHURCH

13 Page 4, line 3, at end insert –

“() An exemption certificate for an item must be transferred to the person acquiring the item at the time of the transaction.”

Member’s explanatory statement

This amendment requires a person selling an exempted item to give the buyer the item’s exemption certificate at the point of sale.

LORD GARDINER OF KIMBLE

14 Page 4, line 21, leave out subsection (8)***Member’s explanatory statement***

Clause 4(8) currently allows the Secretary of State to issue guidance setting out the form or manner in which anything required by clause 3 or 4 may or must be done. This amendment removes this power.

15 Page 4, line 28, leave out “guidance issued” and insert “regulations made”***Member’s explanatory statement***

The effect of the current definition of “specified information” is to allow the Secretary of State to use guidance to specify information that must be provided to the Secretary of State when a person other than the original holder of the exemption certificate deals in an item. This amendment requires the information to be specified in regulations instead.

16 Page 4, line 29, leave out “Secretary of State” and insert “appropriate national authority”***Member’s explanatory statement***

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

Clause 5

LORD GARDINER OF KIMBLE

17 Page 4, line 34, after “appeal” insert “to the First-tier Tribunal”***Member’s explanatory statement***

This amendment provides that an appeal against the refusal or revocation of an exemption certificate is to be made to the First-tier Tribunal.

18 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,

Clause 5 - continued

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.”

Member’s explanatory statement

The subsections inserted by this amendment set out the grounds for an appeal against the refusal or revocation of an exemption certificate, confer power on the appropriate national authority (see the Minister’s amendment of clause 37 at page 22, line 24) to prescribe further grounds in regulations, and set out the actions that the First-tier Tribunal may take on an appeal.

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

Member’s explanatory statement

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

- 20 Page 4, line 37, after “make” insert “further”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 4, line 36.

- 21 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.”

Member’s explanatory statement

The effect of this amendment is to remove paragraphs (a) to (d) of the existing subsection (4) of clause 5. Those paragraphs are no longer necessary because the Minister’s amendment at page 4, line 36 will enable the matters in question to be dealt with by First-tier Tribunal Rules.

Clause 6

LORD CORMACK

- 22 Page 5, line 4, leave out “with a surface area of no more than 320cm²”

Member’s explanatory statement

Not all miniatures would be covered by this limit. This amendment would allow more flexibility in judging miniatures.

Clause 7

LORD CORMACK
LORD DE MAULEY
BARONESS NEVILLE-ROLFE

23 Page 5, line 13, leave out “10%” and insert “20%”

Member’s explanatory statement

This amendment is designed to exclude items containing less than 20% ivory from the administrative arrangements which will follow the enactment of this Bill.

LORD INGLEWOOD
LORD CORMACK
BARONESS NEVILLE-ROLFE

24 Page 5, line 15, leave out paragraph (d)

Member’s explanatory statement

This amendment removes registration as a precondition of allowed sales of de minimis objects containing ivory.

LORD CARRINGTON OF FULHAM

25 Page 5, line 17, at end insert “or is integral to the item’s design or function and contemporaneous with the item.”

Member’s explanatory statement

This is intended to remove the possibility that detachable items from a larger object will be treated as separate items for the purposes of this Bill. In particular, dealing in objects containing small detachable ivory knobs used for regulating barometers and other scientific instruments would be banned under this Bill in its current form.

Clause 8

LORD CORMACK

26 Page 5, line 21, leave out “20%” and insert “30%”

Member’s explanatory statement

This amendment is designed to exclude items containing less than 30% ivory from the administrative arrangements which will follow the enactment of this Bill.

After Clause 8

BARONESS QUIN

27 Insert the following new Clause—

“Report on the impact of this Act on the hire and sale of musical instruments

At the end of the period of five years beginning with the day on which this Act is passed, the Secretary of State must lay before each House of Parliament a report on the impact of this Act on the hire and sale of musical instruments containing ivory in the United Kingdom.”

After Clause 8 - continued

28★ Insert the following new Clause –

“Northumbrian pipes

An item that has ivory in it is exempt from the prohibition if it is a musical instrument that has been certified by the Northumbrian Pipers’ Society, or a similar approved organisation, as being a set of, or part of a set of, Northumbrian pipes made before the passing of this Act, and covered by a valid Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) certificate.”

Clause 9

LORD GARDINER OF KIMBLE

29★ 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;”

Member’s explanatory statement

This main effect of this amendment, which is about how museums are to be identified as “qualifying museums” for the purposes of clause 9, is to replace the reference to Museums Galleries Scotland with a reference to the Scottish Administration. It is also intended to clarify the drafting.

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

Member’s explanatory statement

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 6, line 1.

Clause 10

LORD INGLEWOOD
BARONESS NEVILLE-ROLFE

32 Page 6, line 30, leave out “7”

Member’s explanatory statement

This amendment removes registration as a precondition of allowed sales of de minimis objects containing ivory.

LORD GARDINER OF KIMBLE

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

Member’s explanatory statement

Clause 10(1)(f) currently allows the Secretary of State to use guidance to specify information that the owner of an item must provide when applying for registration of the item. This amendment requires the information to be specified in regulations instead.

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

Member’s explanatory statement

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

LORD CORMACK

35 Page 6, line 40, at end insert—

“() No item with an ivory content of less than 10% need be registered.”

LORD INGLEWOOD
BARONESS NEVILLE-ROLFE

36 Page 6, line 43, leave out paragraph (b)

Member’s explanatory statement

This amendment removes registration as a precondition of allowed sales of de minimis objects containing ivory.

Clause 11

LORD CORMACK

37 Page 7, line 13, leave out from “section 10” to end of line 15 and insert “remains valid if the ownership of the item passes by inheritance to a member of the family of the registered owner.”

Member’s explanatory statement

This amendment is designed to reduce the administrative arrangements which will follow the enactment of this Bill.

LORD GARDINER OF KIMBLE

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

Member's explanatory statement

Clause 11(5) currently allows the Secretary of State to issue guidance setting out the form or manner in which anything required by clause 10 or 11 may or must be done. This amendment removes this power.

After Clause 11

LORD CARRINGTON OF FULHAM

39 Insert the following new Clause—

“Grant of Probate

- (1) In order to obtain a grant of probate, the executors of a deceased's estate shall not be required to register an item that is eligible for registration for dealing purposes.
- (2) Any item not registered under section 10 shall be treated for probate purposes as having zero value.”

Member's explanatory statement

In the Explanatory Notes it is made clear that for inheritance purposes an ivory item does not have to be registered. However, as a registered item may be dealt, it could acquire monetary value. This new clause is intended to prevent HMRC assigning a value to an ivory item on inheritance unless the item was registered.

BARONESS JONES OF WHITCHURCH

40 Insert the following new Clause—

“Guidance

The Secretary of State may by regulations produce and publish guidance to enable a person dealing in ivory to verify the exempted status of an item.”

Member's explanatory statement

This amendment would enable the Secretary of State to lay verification guidance before both Houses of Parliament.

41 Insert the following new Clause—

“Report on exemptions to the ivory ban

- (1) As soon as reasonably practicable after the end of each calendar year, the Secretary of State must prepare a report on certified and registered exemptions to the prohibition and—
 - (a) lay a copy of that report before both Houses of Parliament, and
 - (b) 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 information—
 - (a) the number of applications received;
 - (b) the number of applications rejected;

After Clause 11 - continued

- (c) the number of appeals received;
 - (d) the number of exemptions granted on appeal;
 - (e) the number of exemption certificates and registered exemptions revoked; and
 - (f) any other information that the Secretary of State considers appropriate.
- (4) The information listed in subsection (3) must be listed by category of item.
- (5) The Secretary of State is responsible for prescribing the categories referred to in subsection (4) following a consultation.
- (6) The Secretary of State is not required to include in a report any information that, in his or her opinion, it would be inappropriate to include on the ground that to do so—
- (a) would or might be unlawful, or
 - (b) might enable the identification of the owner.”

Member’s explanatory statement

This amendment would require the Secretary of State to prepare and publish an annual report on exemptions to the ivory ban. The report must provide statistical information about applications, appeals and revocations by category of item as determined by the Secretary of State.

Clause 12

BARONESS JONES OF WHITCHURCH

42 Page 8, line 7, leave out subsection (2) and insert —

“(2) It is a defence for a person charged with an offence under this section to prove that they did not know or suspect, and could not reasonably be expected to know or suspect, that the item is ivory, is made of ivory or (as the case may be) has ivory in it.”

Member’s explanatory statement

This amendment permits a defence of ignorance, with the onus on a person to prove that they did not and could not have been expected to know or suspect that an item contained ivory, to help tackle the problem of deliberately mislabelling ivory items as other substances.

Clause 15

LORD GARDINER OF KIMBLE

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment leaving out clause 17.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment leaving out clause 17.

Clause 16

LORD GARDINER OF KIMBLE

45 Page 10, line 22, after “powers” insert “on police or customs officers”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment leaving out clause 17.

46 Page 10, line 23, leave out “sections 17 and” and insert “section”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment leaving out clause 17.

Clause 17

LORD GARDINER OF KIMBLE

47 Leave out Clause 17

Member’s explanatory statement

This amendment leaves out clause 17, under which accredited civilian officers have power to enter and search premises. Instead, the new clauses inserted by the Minister’s amendments after clause 22 give accredited civilian officers a more limited power of entry, and a power to examine documents and other items, but not a power to conduct a search.

Clause 18

LORD CORMACK

LORD GARDINER OF KIMBLE

48 Page 11, line 17, leave out “or an accredited civilian officer”

Member’s explanatory statement

This amendment and the others which are similarly worded would prevent the appointment by the Minister of accredited civilian officers with powers of entry and seizure.

LORD GARDINER OF KIMBLE

49 Page 11, line 21, leave out “or an accredited civilian officer”

Member’s explanatory statement

Clause 18(2)(a) currently allows an accredited civilian officer to apply for a search warrant in England and Wales or Northern Ireland. The effect of this amendment is that this will no longer be possible.

50 Page 11, line 23, leave out “, an accredited civilian officer”

Member’s explanatory statement

Clause 18(2)(b) currently allows an accredited civilian officer to apply for a search warrant in Scotland. The effect of this amendment is that this will no longer be possible.

51 Page 11, line 25, leave out “or an accredited civilian officer”

Member's explanatory statement

This amendment is consequential on the Minister's amendments at page 11, lines 21 and 23.

52 Page 11, line 32, leave out paragraph (d)

Member's explanatory statement

This amendment is consequential on the Minister's amendments at page 11, lines 21 and 23.

53 Page 12, line 8, leave out "or accredited civilian officer"

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 11, line 17.

54 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.”

Member's explanatory statement

This amendment takes the definition of “premises” from clause 17 (which is left out by one of the Minister's other amendments) and adds it to clause 18.

Clause 19

LORD CORMACK
LORD GARDINER OF KIMBLE

55 Page 12, line 18, leave out “or an accredited civilian officer”

LORD GARDINER OF KIMBLE

56 Page 12, line 19, leave out “or accredited civilian officer”

Member's explanatory statement

This amendment is consequential on the Minister's amendment of clause 24 at page 11, line 17.

57 Page 12, line 22, leave out “or accredited civilian officer”

Member's explanatory statement

This amendment is consequential on the Minister's amendment of clause 24 at page 11, line 17.

58 Page 12, line 25, leave out “or an accredited civilian officer”

Member's explanatory statement

This amendment is consequential on the Minister's amendment of clause 24 at page 11, line 17.

59 Page 12, line 28, leave out “or accredited civilian officer”

Member's explanatory statement

This amendment is consequential on the Minister's amendment of clause 24 at page 11, line 17.

Clause 20

LORD GARDINER OF KIMBLE

60 Page 13, line 2, leave out “an” and insert “a police or customs”

Member's explanatory statement

This amendment is consequential on the Minister's amendment leaving out clause 17.

61 Page 13, line 3, leave out “, 17”

Member's explanatory statement

This amendment is consequential on the Minister's amendment leaving out clause 17.

62 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.”

Member's explanatory statement

The effect of this amendment is to remove the power of a police or customs officer to test an item that the officer thinks is or may be relevant evidence, and also the power to take a sample of the item (possibly in a way that might damage it).

63 Page 13, line 18, leave out “, 17”

Member's explanatory statement

This amendment is consequential on the Minister's amendment leaving out clause 17.

Clause 21

LORD GARDINER OF KIMBLE

64 Page 13, line 22, leave out “an” and insert “a police or customs”

Member's explanatory statement

This amendment is consequential on the Minister's amendment leaving out clause 17.

65 Page 13, line 23, leave out “, 17 ”

Member's explanatory statement

This amendment is consequential on the Minister's amendment leaving out clause 17.

Clause 22

LORD GARDINER OF KIMBLE

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

Member's explanatory statement

This amendment is consequential on the Minister's amendment leaving out clause 17.

67 Page 14, line 4, leave out “, 17”

Member's explanatory statement

This amendment is consequential on the Minister's amendment leaving out clause 17.

After Clause 22

LORD GARDINER OF KIMBLE

68 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.”

Member's explanatory statement

The new clause inserted by this amendment confers powers of entry on accredited civilian officers. These powers are more limited than those currently given to accredited civilian officers under clause 17, as the new clause does not confer a power of entry for the purpose of promoting awareness and understanding of the provisions of the Bill once enacted.

69 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

After Clause 22 - continued

- (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."

Member's explanatory statement

The new clause inserted by this amendment contains most of the powers of accredited civilian officers that are currently contained in clauses 20, 21 and 22, but not the power to break open containers.

Clause 23

LORD GARDINER OF KIMBLE

Member's explanatory statement

This amendment is consequential on the second of the new clauses inserted by the Minister's amendments after clause 22.

Clause 24

LORD GARDINER OF KIMBLE

71 Page 15, line 5, after "22" insert "or (*Other powers of accredited civilian officers*)"

Member's explanatory statement

This amendment is consequential on the second of the new clauses inserted by the Minister's amendments after clause 22.

Clause 25

LORD GARDINER OF KIMBLE

72 Page 15, line 25, after "22" insert "or (*Other powers of accredited civilian officers*)"

Member's explanatory statement

This amendment is consequential on the second of the new clauses inserted by the Minister's amendments after clause 22.

Clause 26

LORD GARDINER OF KIMBLE

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

Member's explanatory statement

This amendment is consequential on the Minister's amendment leaving out clause 17 and the first of the new clauses inserted by the Minister's amendments after clause 22.

Clause 27

LORD GARDINER OF KIMBLE

74 Page 16, line 39, leave out "or accredited civilian officer"

Member's explanatory statement

This amendment is consequential on the Minister's amendment of clause 19 at page 12, line 22.

Clause 28

LORD GARDINER OF KIMBLE

75 Page 17, line 6, after "22" insert "or (*Other powers of accredited civilian officers*)"

Member's explanatory statement

This amendment is consequential on the second of the new clauses inserted by the Minister's amendments after clause 22.

Clause 29

LORD CORMACK

76 Page 17, line 29, leave out “or accredited civilian officer”

Clause 30

LORD CORMACK

77 Page 18, line 23, leave out “or an accredited civilian officer”

After Clause 32

BARONESS JONES OF WHITCHURCH

78 Insert the following new Clause—

“Report on the implementation and impact of the domestic ivory ban

- (1) As soon as reasonably practicable after the end of each calendar year, the Secretary of State must prepare a report on the implementation and impact of the domestic ivory ban and—
 - (a) lay a copy of that report before both Houses of Parliament, and
 - (b) 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 contain information about—
 - (a) the work and resources of relevant bodies including—
 - (i) the Office for Product Safety and Standards,
 - (ii) the Animal and Plant Health Agency,
 - (iii) the National Wildlife Crime Unit,
 - (iv) the police,
 - (v) UK Border Force, and
 - (vi) the Department for International Development;
 - (b) prosecutions for breaching the ban including—
 - (i) the number of civil penalties imposed, and
 - (ii) the number of criminal prosecutions undertaken;
 - (c) the impact on the hire and sale of musical instruments containing ivory in the United Kingdom;
 - (d) the impact on nations or communities that generate income from ivory; and
 - (e) any other information that the Secretary of State considers appropriate.”

Member’s explanatory statement

This amendment would require the Secretary of State to prepare and publish an annual report on the implementation and impact of the ivory ban.

After Clause 33

LORD GARDINER OF KIMBLE
THE EARL OF KINNOULL

79 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.”

Member’s explanatory statement

Under this amendment the prohibition in clause 1 would not apply to a transaction under a pre-commencement insurance contract; or in a case where (for example) a regulated insurer acquires title to an item from an insured person who has been paid out following a theft, or re-sells the item to the insured person if it is later recovered.

Clause 35

LORD GARDINER OF KIMBLE

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

Member’s explanatory statement

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 21, line 4, read with the Minister’s amendment of clause 37 at page 22, line 24.

82 Page 21, line 10, at end insert –

- “() Regulations made by the Scottish Ministers under subsection (2) are subject to the affirmative procedure.
- () 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 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.”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 21, line 4, read with the Minister’s amendment of clause 37 at page 22, line 24. (For the meaning of “subject to the affirmative procedure” see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010; for the meaning of “the Northern Ireland department” see the Minister’s amendment of clause 36 at page 21, line 36.)

Clause 36

LORD GARDINER OF KIMBLE

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment leaving out clause 17 and the first of the new clauses inserted by the Minister’s amendments after clause 22.

84 Page 21, line 20, at end insert –

““the appropriate national authority” has the meaning given by section 37(1A) and (1B);”

Member’s explanatory statement

This amendment inserts a signpost to the definition of “the appropriate national authority” inserted in clause 37 by the Minister’s amendment at page 22, line 24.

85 Page 21, line 36, at end insert –

““the Northern Ireland department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;”

Member’s explanatory statement

This amendment defines “the Northern Ireland department” for the purposes of the Minister’s amendments of clauses 35 and 37 and Schedule 1 that use the expression.

86 Page 21, line 41, leave out “17(7)” and insert “18(7)”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment of clause 18 at page 12, line 9.

Clause 37

LORD GARDINER OF KIMBLE

87 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).”

Member’s explanatory statement

The inserted subsections (1A) and (1B), read with the amendments substituting references to “the appropriate national authority”, require most regulations under the Bill applying outside England to be made either by the relevant devolved authorities or with their consent. Under the inserted subsection (1C) the Secretary of State must consult those authorities before setting fees by regulations.

88 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.”

Member’s explanatory statement

This amendment is consequential on the amendments replacing references to the Secretary of State with references to the appropriate national authority. (The amendment does not mention regulations made by the Scottish Ministers because the relevant provision is made by section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010.)

- 89 Page 22, line 26, after “regulations” insert “made by the Secretary of State”

Member’s explanatory statement

This amendment is consequential on the amendments replacing references to the Secretary of State with references to the appropriate national authority.

- 90 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.”

Member’s explanatory statement

This amendment is consequential on the amendments replacing references to the Secretary of State with references to the appropriate national authority. (For the meaning of “subject to the negative procedure” see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010.)

- 91 Page 22, line 29, leave out subsection (4)

Member’s explanatory statement

This amendment is consequential on the Minister’s amendments to clause 2 at page 2, line 18 (first amendment); to clause 3 at page 2, line 39; to clause 4 at page 4, lines 21 and 28; to clause 10 at page 6, line 37; and to clause 11 at page 7, line 32.

Schedule 1

LORD GARDINER OF KIMBLE

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

Member’s explanatory statement

See the explanation of subsections (1A) and (1B) inserted in clause 37 by the Minister’s amendment at page 22, line 24.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 29, line 6.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 29, line 6.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 29, line 6.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 29, line 6.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 29, line 6.

98 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”

Member’s explanatory statement

This amendment requires the Secretary of State to consult the Welsh Ministers, the Scottish Ministers and the Northern Ireland department before publishing guidance (or revised guidance) under paragraph 21 of Schedule 1.

Schedule 2

LORD GARDINER OF KIMBLE

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment of clause 18 at page 11, line 17.

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment of clause 18 at page 11, line 17.

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

LORD GARDINER OF KIMBLE

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

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment of clause 18 at page 11, line 17.

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LORD GARDINER OF KIMBLE

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

Preamble

BARONESS JONES OF WHITCHURCH

104 Insert the following Preamble –

“Whereas in 1989 the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) agreed to ban the international trade in African elephant ivory; and the resolution adopted at the 2016 Conference of Parties to CITES agreed to phase out domestic ivory markets which contributed to poaching or illegal trade in ivory:

And whereas it is expedient to give effect in the United Kingdom to the restrictions on domestic trade:”

Member’s explanatory statement

This amendment would insert a Preamble linking the Bill to the resolution adopted unanimously by governments at the 2016 Conference of Parties to the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which called on all governments to close domestic ivory markets which contribute to poaching or illegal trade in ivory.

Ivory Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

22 October 2018
