**Ivory Bill – Analysis on the application of Standing Order No.83O of the Standing Orders of the House of Commons relating to Public Business in respect of Government amendments made in the House of Lords**

***Commons consideration of Lords’ amendments stage***

The following is the Department’s assessment of the Bill and of Government amendments made in the House of Lords for consideration by the House of Commons.

*Territorial application[[1]](#footnote-1)*

1. The Government amendments made at Report Stage in the House of Lords apply as follows**:**

* Lords Amendments 1 to 4 amend Clause 2 which extends and applies to the United Kingdom;
* Lords Amendments 5 and 6 amend Clause 3 which extends and applies to the United Kingdom;
* Lords Amendments 7 to 9 amend Clause 4 which extends and applies to the United Kingdom;
* Lords Amendments 10 to 14 amend Clause 5 which extends and applies to the United Kingdom;
* Lords Amendments 15 to 17 amend Clause 9 which extends and applies to the United Kingdom;
* Lords Amendments 18 and 19 amend Clause 10 which extends and applies to the United Kingdom;
* Lords Amendment 20 amends Clause 11 which extends and applies to the United Kingdom;
* Lords Amendments 21 and 22 amend Clause 15 which extends and applies to the United Kingdom;
* Lords Amendments 23 and 24 amend Clause 16 which extends and applies to the United Kingdom;
* Lords Amendment 25 removes Clause 17 which extends and applies to the United Kingdom;
* Lords Amendments 26 to 32 amend Clause 18 which extends and applies to the United Kingdom,
* Lords Amendments 33 to 37 amend Clause 19 which extends and applies to the United Kingdom except sections 19(7) and (8) which extend to England and Wales and Northern Ireland;
* Lords Amendments 38 to 41 amend Clause 20 which extends and applies to the United Kingdom;
* Lords Amendments 42 and 43 amend Clause 21 which extends and applies to the United Kingdom;
* Lords Amendments 43 and 45 amend Clause 22 which extend and applies to the United Kingdom;
* Lords Amendments 46 and 47 insert two new clauses after Clause 22 on the powers of accredited civilian officers which will both extend and apply to the United Kingdom;
* Lords Amendments 48 to 53 amend Clause 23 to Clause 28 respectively. All these clauses extend and apply to the United Kingdom;
* Lords Amendment 54 inserts a new clause after Clause 33 on contracts of insurance which extends and applies to the United Kingdom;
* Lords Amendments 55 to 57 amend Clause 35 which extends and applies to the United Kingdom;
* Lords Amendments 58 to 61 amend Clause 36 which extends and applies to the United Kingdom;
* Lords Amendments 62 to 66 amend Clause 37 which extends and applies to the United Kingdom;
* Lords Amendments 67 to 73 amend Schedule 1 which extends and applies to the United Kingdom; and
* Lords Amendments 74 to 78 amend Schedule 2 which extends and applies to England and Wales and Northern Ireland.

1. The above clause numbers are those included in the Bill as introduced into the Lords. The above Lords Amendments can be summarised as follows:

* Lords Amendments 1, 5, 8 and 18 replace powers to publish guidance with powers to make regulations. Amendments 7 and 20 remove powers to make guidance on the ways that applications may be made for exemption certificates and to register exempted ivory items. Lords Amendment 66 would remove a duty to publish the above mentioned guidance.
* Lords Amendments 2 to 4, 6, 9, 12, 16 and 19 replace “Secretary of State” with “the appropriate national authority” and Lords Amendment 62 inserts a definition of the appropriate national authority. The effect of these amendments would be that the Secretary of State could make regulations applying to Wales, Scotland and Northern Ireland with the consent of the Welsh Ministers, Scottish Ministers or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland. These bodies would be able to make their own regulations, for example of they did not give their consent for the Secretary of State to do so. Amendments 59 to 73 make amendments to the Bill consequential to these changes.
* Lords Amendments 10 provides that the First-tier Tribunal will hear appeals against decisions to refuse or revoke exemption certificates. Amendment 11 sets out the grounds on which an appeal may be made and the powers of the Tribunal on appeal. Amendments 13 and 14 make consequential changes to powers to make regulations about appeals.
* Lords Amendment 15 would replace Museums Gallery Scotland with the Scottish Ministers as the body responsible for making or arranging publication of a list of accredited museums in Scotland. Amendment 17 makes a consequential change reflecting the new numbering of subsections in clause 9.
* Lords Amendment 25 would remove clause 17 which would be replaced by two new clauses that would be inserted by Lords Amendments 46 and 47 concerning the powers of accredited civilian officers. Certain powers of accredited civilian officers to enter and search premises would be limited and their powers to search vehicles, vessels and aircraft and apply for search warrants would be removed. Amendments 21 to 24, 26 to 45, 48 to 53, 58 and 74 to 78 would make changes consequential to the removal of the above powers.
* Lords Amendment 54 inserts a new clause which would provide that the prohibition on dealings in ivory would not apply to a transaction under an insurance policy that is in force at the time of commencement. It would also ensure that the acquisition or disposal of an ivory item by a regulated insurer as the result of standards insurance activities will not be covered by the prohibition.

1. There are no changes to the territorial application of the clauses in the Bill as a result of these amendments.

The above assessment for amended clauses is presented in tabular form below.

| Provision | Extends to E & W and applies to England? | Extends to E & W and applies to Wales? | Extends and applies to Scotland? | Extends and applies to Northern Ireland? | Would corresponding provision be within the competence of the National Assembly for Wales? | Would corresponding provision be within the competence of the Scottish Parliament? | Would corresponding provision be within the competence of the Northern Ireland Assembly? | Legislative Consent Motion needed? |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Prohibition  Clause 1 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| Exemption for outstandingly valuable and important pre-1918 items  Clauses 2-5 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| Other exemptions  Clauses 6-11 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| Criminal and civil sanctions  Clauses 12-13 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| Powers of entry, search and seizure  Clauses 14-18 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| Warrants authorising entry and search of premises  Clause 19 | Yes | Yes | In part | Yes | N/A | N/A | N/A | Yes (W, S, NI) |
| Further provisions about searches, etc  Clauses 20-27 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S, NI) |
| Retention and disposal or return of items  Clauses 28-32 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| General  Clauses 33-42 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| Schedule 1 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| Schedule 2 | Yes | Yes | No | Yes | N/A | N/A | N/A | Yes (W and NI) |

The above assessment for new clauses is presented in tabular form below.

| Provision | Extends to E & W and applies to England? | Extends to E & W and applies to Wales? | Extends and applies to Scotland? | Extends and applies to Northern Ireland? | Would corresponding provision be within the competence of the National Assembly for Wales? | Would corresponding provision be within the competence of the Scottish Parliament? | Would corresponding provision be within the competence of the Northern Ireland Assembly? | Legislative Consent Motion needed? |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Accredited civilian officers: powers of entry  After Clause 22 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S and NI) |
| Other powers of accredited civilian officers  After Clause 22 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | Yes (W, S, NI) |
| Contracts of insurance  After Clause 33 | Yes | Yes | Yes | Yes | N/A | N/A | N/A | No |

1. References in this statement to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business. [↑](#footnote-ref-1)