



# Ivory Act 2018

## 2018 CHAPTER 30

*Exemption for outstandingly valuable and important pre-1918 items*

### **2 Pre-1918 items of outstanding artistic etc value and importance**

- (1) An item that is made of ivory, or has ivory in it, is exempt from the prohibition if—
- the Secretary of State has issued a certificate under this section (an “exemption certificate”), and
  - the certificate has not been revoked under section 4(3).

This is subject to section 4(7).

- (2) The Secretary of State may issue an exemption certificate for an item only if satisfied that—
- the item is pre-1918, and
  - the item is of outstandingly high artistic, cultural or historical value.
- (3) The following matters are to be taken into account in considering whether the condition in paragraph (b) of subsection (2) is satisfied in the case of a particular item—
- the rarity of the item;
  - the extent to which the item is an important example of its type;
  - any other matters specified in regulations made by the appropriate national authority.

- (4) An exemption certificate for an item may be issued only on the application of the owner of the item.

- (5) The appropriate national authority may by regulations prescribe institutions that, in the authority’s opinion, possess the necessary knowledge and expertise to provide the Secretary of State with advice on applications for exemption certificates.

In this Act “prescribed institution” means an institution prescribed under this subsection.

- (6) An institution may be prescribed under subsection (5) only with the consent of the persons in charge of the institution.

### 3 Applications for exemption certificates

- (1) A person applying for an exemption certificate for an item must—
- (a) give the name and address of the owner of the item,
  - (b) provide a description of the item and of any distinguishing features that it has,
  - (c) provide a photograph of the item showing any such features,
  - (d) make a declaration that, in the applicant's opinion, the item satisfies the conditions in paragraphs (a) and (b) of section 2(2),
  - (e) provide an explanation as to why the applicant is of that opinion,
  - (f) provide information about any dealing in the item that is expected to take place,
  - (g) provide any other information specified in regulations made by the appropriate national authority, and
  - (h) pay to the Secretary of State any fee prescribed by regulations made by the Secretary of State.
- (2) The Secretary of State must refer an application for an exemption certificate to a prescribed institution if satisfied that—
- (a) the applicant has complied with subsection (1), and
  - (b) the item is not one that clearly fails to satisfy the conditions in paragraphs (a) and (b) of section 2(2).

Otherwise the Secretary of State must refuse the application and inform the applicant why it has been refused.

- (3) Where an application is referred to a prescribed institution under subsection (2), an individual nominated by the institution ("the assessor") must—
- (a) inspect and assess the item,
  - (b) notify the Secretary of State whether or not, in the assessor's opinion, the item satisfies the conditions in paragraphs (a) and (b) of section 2(2), and
  - (c) notify the Secretary of State of the assessor's reasons for forming that opinion.
- (4) An institution may nominate an individual under subsection (3) only with the individual's consent.
- (5) The Secretary of State must reimburse the reasonable costs of the prescribed institution or the assessor in dealing with an application referred under subsection (2).
- (6) Having considered the assessor's opinion, the Secretary of State—
- (a) must grant the application for an exemption certificate if the Secretary of State is of the opinion that the item satisfies the conditions in paragraphs (a) and (b) of section 2(2);
  - (b) otherwise, must refuse the application and inform the applicant why it has been refused.
- (7) If the application is granted, the Secretary of State must provide the applicant with an exemption certificate.

#### **4 Further provision about exemption certificates**

- (1) An exemption certificate must—
  - (a) contain a unique number (or combination of letters and figures);
  - (b) contain enough information to identify (so far as possible) the item to which it relates.
- (2) Where an exemption certificate has been issued for an item and—
  - (a) the owner of the item becomes aware that any relevant information relating to the item is inaccurate or incomplete, or
  - (b) any such information becomes inaccurate or incomplete,the owner must notify the Secretary of State accordingly and must provide the Secretary of State with the necessary information to make good the inaccuracy or incompleteness.
- (3) The Secretary of State may revoke an exemption certificate if it appears to the Secretary of State that—
  - (a) the item concerned does not satisfy the conditions in paragraphs (a) and (b) of section 2(2), or
  - (b) the owner of the item has failed to comply with subsection (2) above.
- (4) The Secretary of State may issue a revised exemption certificate if it appears to the Secretary of State that any relevant information relating to the item concerned is, or has become, inaccurate or incomplete.
- (5) The Secretary of State may provide a person with a new exemption certificate (a “replacement certificate”) if—
  - (a) an exemption certificate has been lost,
  - (b) a person acquires an item in respect of which an exemption certificate has been issued but is unable to obtain that certificate from the previous owner, or
  - (c) it seems to the Secretary of State to be appropriate for any other reason to provide a replacement certificate.
- (6) Section 3 does not apply to an application for a replacement certificate.
- (7) Where a person (P) deals in an item in respect of which an exemption certificate was issued to a different person, the exemption under section 2 applies only if—
  - (a) P has taken possession of the certificate or has been provided with a replacement certificate in respect of the item, and
  - (b) P has provided the Secretary of State with any specified information and has paid to the Secretary of State any fee prescribed by regulations made by the Secretary of State.
- (8) In this section—
  - “information” includes any declaration or photograph;
  - “relevant information” means any information given to the Secretary of State under section 3 or this section;
  - “specified information” means information specified in regulations made by the appropriate national authority.

## 5 Fresh applications and appeals

- (1) Where an application for an exemption certificate is refused or an exemption certificate is revoked, the owner of the item concerned—
  - (a) may make a fresh application;
  - (b) may appeal to the First-tier Tribunal against the refusal or revocation.
- (2) A fee prescribed under section 3(1)(h) must be the same for a fresh application under subsection (1)(a) as for a first application.
- (3) 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.
- (4) 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.
- (5) The appropriate national authority may by regulations make further provision about appeals under subsection (1)(b).
- (6) The Secretary of State may by regulations make provision requiring an appellant to pay a fee of a prescribed amount.