



# Ivory Act 2018

## 2018 CHAPTER 30

### *General*

#### **34 Application of Customs and Excise Management Act 1979**

- (1) An item that is—
  - (a) imported or exported in breach of the prohibition, or
  - (b) declared for, or brought to a place in the United Kingdom for, exportation in breach of the prohibition,is liable to forfeiture under the Customs and Excise Management Act 1979.
- (2) Section 5 of that Act (time of importation, exportation, etc) applies for the purposes of this section as it applies for the purposes of that Act.

#### **35 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.

### **36 Liability of corporate officers for offences by bodies corporate etc**

- (1) If an offence under this Act by a body corporate or a Scottish partnership is proved to have been committed with the consent or connivance of an officer, the officer (as well as the body corporate or partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) In relation to a body corporate “officer” means—
  - (a) a director, manager, secretary or other similar officer of the body, or
  - (b) a person purporting to act in any such capacity.
- (3) In relation to a Scottish partnership “officer” means—
  - (a) a partner, or
  - (b) a person purporting to act as a partner.
- (4) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and omissions of a member in connection with functions of management as if the member were an officer of the body.

### **37 Meaning of “ivory”**

- (1) In this Act (apart from this section) “ivory” means ivory from the tusk or tooth of an elephant.
- (2) Regulations made by the appropriate national authority may amend subsection (1) so as to include ivory from an animal or species (whether extant or not) that is not for the time being covered by that subsection.
- (3) A statutory instrument containing regulations made by the Secretary of State under subsection (2) (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before each House of Parliament and approved by a resolution of each House.
- (4) 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.
- (5) Regulations made by the Scottish Ministers under subsection (2) are subject to the affirmative procedure.
- (6) 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.
- (7) In any proceedings under this Act, any material that is proved to be ivory from an animal is presumed to be ivory from an elephant unless the material is proved to be not from an elephant.
- (8) In this section “elephant” means an animal of a species that is—
  - (a) within the family *Elephantidae*, and

- (b) extant on the day on which this Act is passed.

### **38 Meaning of other expressions**

(1) In this Act—

- “accredited civilian officer” has the meaning given by section 22(2);  
“the appropriate court” has the meaning given by section 30(8);  
“the appropriate national authority” has the meaning given by section 39(2) and (3);  
“dealing” has the meaning given by section 1(2) to (4);  
“designated customs official” means a person—  
(a) designated as a general customs official under section 3(1) of the Borders, Citizenship and Immigration Act 2009, or  
(b) designated as a customs revenue official under section 11(1) of that Act;  
“designated NCA officer” means a National Crime Agency officer designated under section 10 of the Crime and Courts Act 2013 as a person having either or both of the following—  
(a) the powers and privileges of a constable;  
(b) the powers of an officer of Revenue and Customs;  
“exemption certificate” has the meaning given by section 2(1);  
“justice” means—  
(a) in England and Wales, a justice of the peace;  
(b) in Scotland, a sheriff or summary sheriff or a justice of the peace;  
(c) in Northern Ireland, a lay magistrate;  
“the Northern Ireland department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;  
“police officer” has the meaning given by section 30(8);  
“police or customs officer” has the meaning given by section 14(4);  
“pre-1918”, “pre-1947” and “pre-1975” are to be read in accordance with subsections (2) and (3);  
“premises” has the meaning given by section 17(7);  
“prescribed institution” has the meaning given by section 2(5);  
“the prohibition” means the prohibition in section 1;  
“relevant evidence” has the meaning given by 14(4);  
“relevant offence” has the meaning given by 14(4);  
“search warrant” means a warrant under section 17;  
“vessel” is to be read in accordance with subsection (4).

(2) An item that is made of ivory, or has ivory in it, is “pre-1918”, “pre-1947” or “pre-1975” if the item was made before the relevant date (see subsection (3)) and either—

- (a) no ivory was added to the item on or after the relevant date, or  
(b) any ivory added to the item on or after the relevant date—  
(i) was taken from its animal source before 1 January 1975, and  
(ii) was added to the item for the purpose of restoring it.

(3) The “relevant date” is—

- (a) 1 January 1918 for a pre-1918 item;

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*Status: This is the original version (as it was originally enacted).*

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- (b) 3 March 1947 for a pre-1947 item;
- (c) 1 January 1975 for a pre-1975 item.

- (4) A reference to a vessel includes a reference to—
- (a) a ship or boat or any other description of vessel used in navigation, and
  - (b) a hovercraft, submersible craft or other floating craft,
- but does not include a reference to anything that permanently rests on, or is permanently attached to, the sea bed.

### **39 Regulations**

- (1) Regulations under the preceding provisions of this Act—
- (a) may make consequential, supplementary, incidental, transitional or saving provision;
  - (b) may make different provision for different purposes or for different parts of the United Kingdom.
- (2) 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.
- (3) 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 national 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.
- (4) 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(6) or 10(1)(g).
- (5) 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.
- (6) A statutory instrument containing regulations made by the Secretary of State under this Act, other than regulations under section 37(2) or 43, is subject to annulment in pursuance of a resolution of either House of Parliament.

- (7) A statutory instrument containing regulations made by the Welsh Ministers under this Act, other than regulations under section 37(2), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (8) Regulations made by the Scottish Ministers under this Act, other than regulations under section 37(2), are subject to the negative procedure.
- (9) Regulations made by the Northern Ireland department under this Act, other than regulations under section 37(2), are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.

#### **40 Financial provision**

Any expenditure incurred by the Secretary of State under or by virtue of this Act is to be paid out of money provided by Parliament.

#### **41 Crown application**

- (1) Subject to subsection (2), this Act binds the Crown.
- (2) Sections 12 and 28 and paragraph 9 of Schedule 1 (offences) apply to persons in the service of the Crown but, apart from that, do not bind the Crown.

#### **42 Extent**

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Subsection (1) does not apply to section 18(7) and (8) and Schedule 2, which extend to England and Wales and Northern Ireland.

#### **43 Commencement**

- (1) This Act comes into force in accordance with provision made by the Secretary of State by regulations.
- (2) Regulations under this section—
  - (a) may make transitional or saving provision;
  - (b) may make different provision for different purposes or for different parts of the United Kingdom.

#### **44 Short title**

This Act may be cited as the Ivory Act 2018.