



# Ivory Bill

## Factsheet – Compliance

29 June 2018

### The compliance processes

The Ivory Bill defines five narrow exemptions for items which are not directly or indirectly linked to the poaching of elephants. In order for individuals to carry out commercial dealing in ivory items meeting these exemptions, they must adhere to the relevant compliance process. It will be an offence to:

- carry out commercial activities in ivory without previously registering (i) items containing less than 10% ivory by volume, (ii) musical instruments, (iii) portrait miniatures and (iv) sales to or between accredited museums; or carry out commercial activities in ivory without obtaining an exemption certificate for the rarest and most important items of their type. This offence applies even if the item would meet one of the exemption categories. This may be a criminal or civil offence.
- make or use a fraudulent registration or certificate. This may be a criminal or civil offence.

The government intends these processes to be robust and proportionate. The compliance processes will enable sellers to demonstrate that their items meet the relevant exemption, and thus that their use in commercial dealing is permitted under the Bill. The systems are intended to deter illegal commercial dealing in ivory, monitor the commercial dealing in exempt items and aid identification of breaches in the ban.

The processes will also enable potential purchasers to assure themselves that they are acting in accordance with the ban. Exemption and registration certificates will provide an identification code and will require other information, such as photographs, to identify the exempt item.

Anyone wishing to register an item as exempt from the ban will be able to do so via a new online system. Provisions will be put in place for those unable to use an online system.

The government, Police, Customs and the Regulatory Body will have access to the database. Those registering items, or applying for exemption certificates, will be required to pay a fee.

The Bill does not affect ownership of ivory, including, inheriting, bequeathing or donating. The compliance processes, therefore do not apply to in these situations.

## Two compliance processes

There are two distinct compliance processes provided for in the Ivory Bill:

1. Clauses 3 to 5 provide for a **certification process** to be applied to the exemption for the rarest and most important items of their type. This process includes assessment of the item by a relevant expert who will advise the Secretary of State on whether it meets the published criteria for this exemption. The application fee will be higher for applications made under this exemption category as it will enable the Secretary of State to reimburse the reasonable costs of the advisory institutions.
2. Clauses 10 and 11 provide for a **self-registration process** to be applied to the other four categories of exemption: i) items with a low ivory content; ii) musical instruments; iii) portrait miniatures; and iv) sales to accredited museums.

The Animal and Plant Health Authority (APHA) is the existing UK Management Authority for the EU Wildlife Trade Regulations and will act on behalf of the Secretary of State to administer the new registration and certification processes.

## Robust and proportionate

### The self-registration system

The government considers that an online self-registration system represents the most proportionate means of ensuring compliance with this Bill. It places a small administrative responsibility and a small financial cost on the seller, i.e. the person who will gain from an exemption to the general prohibition on commercial dealing in ivory.

Crucially, by registering an item online through this system, the applicant – either the owner of the item or their representative – will be confirming that, to the best of their

knowledge, all the information provided is correct and that the item therefore does meet the exemption. Should this be challenged at a later date, the seller will be expected to prove that the information submitted is correct.

The APHA, the regulator and police will have access to the registration system to enable them to carry out any enforcement and monitoring action necessary. The APHA will also carry out spot checks on items registered to check for accuracy and compliance.

## **The certification system for the rarest and most important items of their type**

The government considers that, given the specialist nature of assessments needed under this exemption criteria, and, indeed, the likely value of many items considered, a certification system is most appropriate. A certification system represents a higher bar to compliance than a self-registration system.

Whilst the initial stages of the application will be similar to that for the self-registration system – i.e. submitting the information requested via the online system – the certification process diverges significantly as the information provided will be passed by the APHA to one of a list of prescribed institutions for expert advice.

On accepting a request for advice, the assessing institution will be required to sign a waiver to confirm that they have no commercial interest in the item. The assessing expert will provide advice to the Secretary of State, in the form of the APHA. The Secretary of State will then make a decision as to whether or not to issue an exemption certificate.

APHA will have the power to revoke a registration or certificate. They may do so if the owner does not inform them of any changes or inaccuracies in the information contained within a registration or certificate, or if APHA becomes aware that the item no longer meets the exemption conditions.

### **Advisory institutions**

The Secretary of State will prescribe a number institutions through regulations under Clause 2(5) (see factsheet on delegated power) which will be authorised to provide advice on whether an item meets the criteria. These Institutions will be eminent museums such as the Victoria and Albert Museum and the British Museum, which have renowned expertise in areas and periods of artistic history relevant to ivory artefacts. Such institutions already

provide advice to government on matters of pre-eminence and national importance, for instance under the Export Licensing regime for cultural objects.

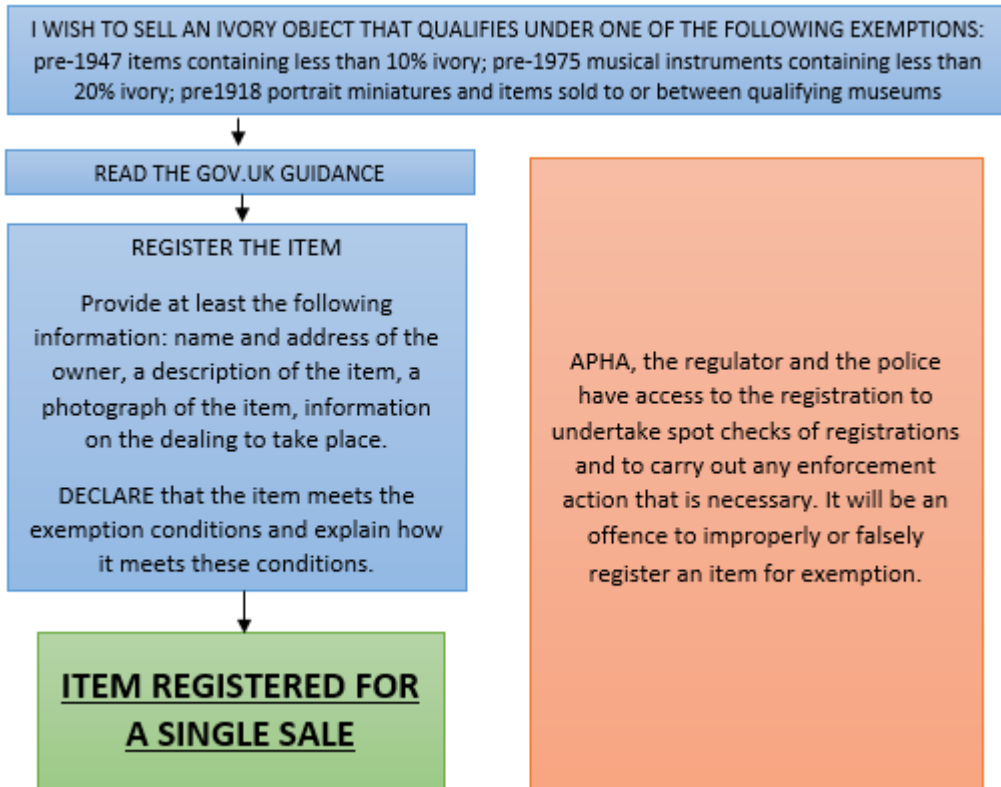
## How the processes work

The diagrams below demonstrate how the processes will work in practice. It is also worth noting the processes apply differently should the new owner of an item wish to engage in further commercial dealing with it.

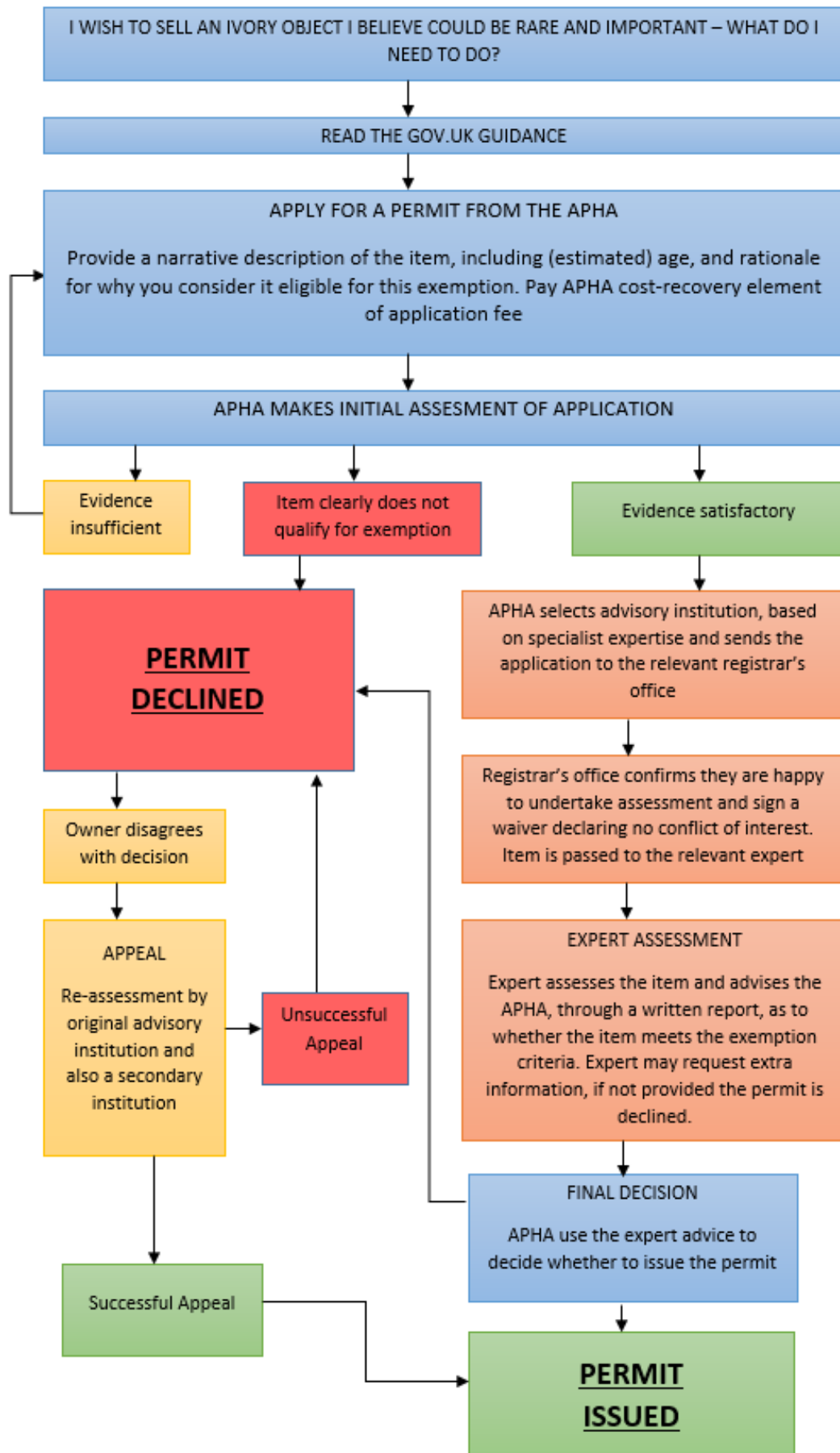
An exemption certificate, issued for the rarest and most important items of their type, will 'accompany' the item when a transaction is made. Similar to a passport system, the certificate will "belong" to the item, not the owner. For example, if person A secures a certificate for their item, and sells it to person B, it is their responsibility to pass on the exemption certificate to person B. There is no requirement on person B to take any further action, unless and until such time as they chose to re-sell the item. Person B *will not* be required to have the item re-certified: the government believes that once an item has been assessed as rare and important that assessment will stand unless there is a material change to the item. Person B will, however, be required to self-register their intention to sell, and to pay a small administrative fee. This is to enable the government to understand the frequency with which such items are sold.

If an item is registered as exempt, that registration is valid for a single sale to a new owner. If that new owner wishes to carry out dealing in that ivory item, they must make a fresh registration, as they will then become the seller. A purchaser of an item would not be required to register their ownership unless and until they wished to undertake dealing in that item.

## Registration process



## Certification process





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