EXPLANATORY MEMORANDUM TO

THE IVORY PROHIBITIONS (EXEMPTIONS) (PROCESS AND PROCEDURE) (AMENDMENT) REGULATIONS 2025

2025 No. 510

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food, and Rural Affairs and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Mary Creagh CBE, Parliamentary Under-Secretary of State (Minister for Nature) at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 Richard Pullen, Deputy Director for Environmental Governance, at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Alice Barker at the Department for Environment, Food and Rural Affairs Telephone: 03459 33 55 77 or email: ivoryconsultation@defra.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Schedule (Prescribed Institutions) to the Ivory Prohibitions (Exemptions) (Process and Procedure) Regulations 2022 (S.I. 2022/94) ("the 2022 Regulations"), to add three additional names to the list of institutions which possess the necessary knowledge and expertise to provide the Secretary of State with advice on applications for exemption certificates under The Ivory Act 2018 ("the Act").

4.2 The Act prohibits dealing in items made of, or containing, ivory, with limited exemptions for dealing in ivory items that do not contribute directly or indirectly to the ongoing poaching of ivory species. Section 2 of the Act provides for an exemption for "pre-1918 ivory items of outstandingly high artistic, cultural or historical value".

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The purpose of the Act is to prohibit commercial activities concerning ivory in the UK and the import and re-export of ivory for commercial purposes to and from the UK. This instrument adds three additional institutions to the list of Prescribed Institutions which provide advice to the Secretary of State on applications for exemption certificates under the Act. Dealing may only take place if an exemption certificate has been issued, remains valid and has not been revoked.

5.2 The policy objective of this instrument is to increase the number of Prescribed Institutions who possess the necessary knowledge and expertise to provide the Secretary of State with advice on applications for exemption certificates, thus reducing the end-to-end processing and waiting time taken for assessments. It will also make the network of expertise more robust, by providing a greater range and availability of expertise, supporting businesses who rely on these certificates for trade.

What was the previous policy, how is this different?

5.3 The Schedule to the 2022 Regulations set out nine Prescribed Institutions. The names of five were corrected by the Ivory Act 2018 (Meaning of "Ivory" and Miscellaneous Amendments) Regulations 2025 ("2025 Regulations"). This instrument adds three more.

6. Legislative and Legal Context

How has the law changed?

6.1 These Regulations are made in exercise of the powers conferred by section 2(5) of the Act. "Prescribed Institution" has meaning given by section 2(5). In accordance with section 39(3) of the Act, they are made with the consent of the Welsh Ministers, Scottish Ministers and the Northern Ireland department.

6.2 These Regulations amend the Schedule to the Ivory Prohibitions the Ivory Prohibition (Exemptions) (Process and Procedure) Regulations 2022 to prescribe three additional institutions who possess the necessary knowledge and expertise to provide the Secretary of State with advice on applications for exemption certificates. Under section 3(3) of the Act, where an application is referred to a prescribed institution, an individual nominated by the institution must assess the item and give an opinion on whether the item satisfies the conditions for an exemption certificate, with reasons. The Ivory Prohibition (Exemptions) (Process and Procedure) Regulations 2022 provide the names of the institutions that are able to appoint an individual to assess items for which an application for an exemption certificate under the Act has been made, as well as provision about applications for exemption certificates, and fees and appeals relating to such applications.

Why was this approach taken to change the law?

6.3 Legislation is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The changes in this instrument have not been subject to a public consultation, as this would be disproportionate given the nature of the changes.

7.2 A public consultation on implementing the Act took place in 2021 on a UK wide basis, as agreed with the Devolved Governments. A summary of responses can be found here implementing-ivory-act-2018-summary-of-responses-government-response.pdf (publishing.service.gov.uk) . The consultation sought the views of interested parties on proposals for implementing the Act, including on approaches to identifying and working with Prescribed Institutions. The majority (61%) of respondents who answered Question 11 on the rationale for identifying Prescribed Institutions agreed with the governments proposal. The process for identifying institutions under this instrument was consistent with those set out in the consultation.

8. Applicable Guidance

8.1 Administrative guidance on the Act will be updated on or ahead of this instrument coming into force on 15th May 2025 to include an updated list of all twelve Prescribed Institutions.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 The impact on business, charities or voluntary bodies is outlined in the impact assessment for the Act available online[1]. A full impact assessment has not been prepared for this instrument because the costs are below the cost impact threshold requiring an impact assessment to be produced.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 There is no, or no significant impact on small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause. It will be kept under review per the ordinary course of government business.

[1] Ivory Act 2018 impact assessment: https://publications.parliament.uk/pa/bills/cbill/2017-2019/0215/IA182205_01.pdf

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 In feedback for 'The Ivory Prohibitions (Exemptions) (Process and Procedure) Regulations 2022', the JCSI asked for "precise descriptions and unique identifiers for the institutions listed in Schedule 1". For clarity and consistency, this instrument uses a naming convention which refers to the Prescribed Institutions by their legal entity. This reflects the approach taken in the 2025 Regulations which corrected the names of five of the Prescribed Institutions.

12. European Convention on Human Rights

12.1 Mary Creagh CBE, Parliamentary Under-Secretary of State (Minister for Nature), has made the following statement regarding Human Rights:

"In my view the provisions of The Ivory Prohibitions (Exemptions) (Process and Procedure) (Amendment) Regulations 2025 are compatible with the Convention rights.".

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").