



BRIEFING PAPER

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The Holocaust (Return of Cultural Objects) (Amendment) Bill 2017-19

By John Woodhouse

Contents:

1. Background
2. The Bill
3. Debate in the Commons



Contents

Summary	3
1. Background	4
1.1 The Spoliation Advisory Panel	4
1.2 The Holocaust (Return of Cultural Objects) Act 2009	4
1.3 July 2017: Government announces proposals to “renew” the 2009 Act	6
2. The Bill	7
3. Debate in the Commons	7
3.1 Second reading	7
3.2 Public Bill Committee	9

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Summary

The *Holocaust (Return of Cultural Objects) (Amendment) Bill 2017-19* is a Private Members' Bill, introduced by Theresa Villiers. It has Government support.

The Bill has two clauses and would prevent the *Holocaust (Return of Cultural Objects) Act 2009* from expiring on 11 November 2019.

The Bill had its [second reading](#) on 8 February 2019 where it received cross-party support. It was [considered](#) in Public Bill Committee on 27 February 2019 where it was not amended. Report and third reading are expected to take place on 15 March 2019.

The Bill would extend to England and Wales, and Scotland.

The Scottish Parliament has approved a [legislative consent motion](#) on the Bill.

Information on the Bill's progress can be found on the [parliamentary website](#).

Background to the 2009 Act is available in the Library's [Briefing Paper](#) (RP 09/59, 23 June 2009) on the [Holocaust \(Return of Cultural Objects\) Bill 2008-09](#).

1. Background

The [Spoliation Advisory Panel](#) resolves claims from people, or their heirs, who lost property during the Nazi era, and which is now held in UK national collections. The *Holocaust (Return of Cultural Objects) Act 2009* complements the work of the Panel.

1.1 The Spoliation Advisory Panel

The Panel was established in 2000. It offers advice on claims for the return of cultural objects lost during the Nazi era and which are now in UK collections.

The Panel is appointed by the Secretary of State for Digital, Culture, Media and Sport. It considers claims from anyone (or from any one or more of their heirs) who lost possession of a cultural object during the Nazi era (1933-1945), where such an object is (a) now in the possession of a UK national collection, or (b) in the possession of another UK museum or gallery established for the public benefit. A Panel may also be designated to advise about any claim for an item in a private collection at the joint request of the claimant and the owner.

The Panel's proceedings are an alternative to litigation and its recommendations are not legally binding on any parties. However, if a claimant accepts the recommendation of a Panel and the recommendation is implemented, the claimant is expected to accept this as full and final settlement of the claim.¹

Since 2000, the Panel has advised on 20 claims and 23 cultural objects have either been returned to families or compensation has been paid. There are currently no claims being considered.²

The Gov.UK [website](#) gives detailed information on the work of the Panel including:

- [Terms of Reference](#)
- [Rules of Procedure](#)
- [Guidance for the Parties](#)
- [Reports of the Panel](#).

1.2 The Holocaust (Return of Cultural Objects) Act 2009

The *Holocaust (Return of Cultural Objects) Act 2009* received Royal Assent on 12 November 2009.

The Act gave seventeen "listed institutions" the power to return cultural objects lost during the Nazi era to their original owners or their heirs. It

¹ Gov.UK website, [Spoliation Advisory Panel](#) [accessed 4 March 2019]

² Ibid

does so by enabling the institutions to give effect to recommendations made by the Spoliation Advisory Panel. Before the Act came into force, the governing rules of the listed museums prevented them from returning items in their collections.

The listed institutions are set out in [section 1](#) of the Act (as amended):

- the Armouries
- the British Library
- the British Museum
- the Imperial War Museum
- the National Galleries of Scotland
- the National Gallery
- the National Library of Scotland
- the National Maritime Museum
- the National Museums and Galleries on Merseyside
- the National Museums of Scotland
- the National Portrait Gallery
- the Natural History Museum
- the Royal Botanic Gardens, Kew
- the Science Museum
- the Tate Gallery
- the Victoria and Albert Museum
- the Wallace Collection.

The sunset clause

A sunset clause in [section 4\(7\)](#) means that the Act will expire on 11 November 2019.

Why was the clause added?

A July 2006 [consultation](#) on possible legislation relating to the return of objects spoliated in the Nazi era sought views on whether any legislation should expire after a certain length of time. As the document noted:

(...) The time which has passed since the end of the Nazi era is already making it difficult for claimants to provide the relevant evidence to prove their claims. The more time elapses, the harder it will become to amass sufficient evidence to decide whether a particular claim is justified or not. If museums are given a permanent power to transfer items out of their collection when the item concerned was lost during the Nazi era, it may well be necessary to decide claims made several decades from today, when the available evidence has deteriorated still further, making it impossible for the claim to be substantiated. This problem could be met by providing that any power to transfer items out of a

museum's collection should only be effective for a period of, for example, ten or twenty years, after it comes into force.³

A majority of respondents felt that legislation should be time-limited.⁴

When the *Holocaust (Return of Cultural Objects) Bill 2008-09* was [considered](#) in Committee, the Government said that the ten years in the sunset clause was "an appropriate period, after which all outstanding claims should reasonably have been considered".⁵

1.3 July 2017: Government announces proposals to "renew" the 2009 Act

In July 2017, the Government [announced](#) that it wanted the 2009 Act to continue indefinitely. John Glen, the then Minister for Arts, Heritage and Tourism said:

More than 70 years after the end of the Second World War, some families are still waiting for their cultural property to be returned. We want countries from across the continent to help right this historic wrong.

I hope this conference will raise awareness of this important issue and help to reunite people with their precious heirlooms. Our plans to renew the Holocaust Act underline our commitment to building a fairer society and we will do everything in our power to return Nazi-looted art to its rightful owners.⁶

Sir Donnell Deeny, joint Chair of the Spoliation Advisory Panel, welcomed the announcement:

It is only right that we offer fair and just solutions to those who lost art looted by the Nazis during and before World War II.

The Panel has been an integral part of that process since the millennium and we welcome the Government's intention that it should continue...⁷

Anne Webber, Co-Chair of the [Commission for Looted Art in Europe](#), said:

(...) Although many of the [Holocaust] survivors are now passing away, their children and heirs still urgently seek the transparency, accountability and justice that was promised, and the restitution of what was taken and never returned. We welcome the UK government's strengthening of its commitment to return, and its determination to renew and revitalise these international imperatives.⁸

³ DCMS, [Restitution of objects spoliated in the Nazi-era: a consultation document](#), July 2006, para 3.60

⁴ DCMS, [Summary of Responses to the Consultation on the Restitution of Objects Spoliated in the Nazi-Era](#), June 2007, p4

⁵ [Public Bill Committee 10 June 2009 c10](#)

⁶ ["UK Government renews its commitment to return Nazi-looted art to rightful owners"](#), DCMS press release, 21 July 2017

⁷ Ibid

⁸ Ibid

2. The Bill

The *Holocaust (Return of Cultural Objects) (Amendment) Bill 2017-19* was introduced on 13 March 2018 by Theresa Villiers under the Ten Minute Rule.

The Bill contains two clauses and has Government support.

Clause 1 would remove section 4(7) of the 2009 Act so that it can continue indefinitely.

Clause 2 (1) sets out the Bill's territorial extent – it would extend to England and Wales, and Scotland.

The Scottish Parliament has approved a [legislative consent motion](#) on the Bill.

The [Bill](#) and [Explanatory Notes](#) are available from the [parliamentary website](#).

Comment

There is little publicly available comment on the Bill.⁹

3. Debate in the Commons

3.1 Second reading

The Bill had its [second reading](#) in the Commons on 8 February 2019. When speaking to her Bill, Theresa Villiers said that the 2009 Act had worked well and that the case for saving it was “strong”:

(...) This two-clause Bill has a simple objective: to retain on the statute book the Holocaust (Return of Cultural Objects) Act 2009, which would otherwise lapse on 11 November this year. My Bill would remove the sunset clause that is section 4(7) of the Act, with the result that it stays in force.

The case to save the 2009 Act is strong. It empowers a list of our national museums and libraries specified in section 1 to return items lost, stolen, looted or seized during the holocaust to their rightful owners or heirs. Prior to 2009, certain institutions, such as the British Museum and the British Library, were unable to return works of art to the people from whom the Nazis stole them because legal restrictions forbade them from giving away their collections. This was a bar even in cases when the museum was convinced of the merits of the claim and wanted to return the disputed item. Even where the Spoliation Advisory Panel established by the Government to look into these cases concluded that a fair outcome was restoration to the heirs of the original owner, that still could not be done.

(...) This legislation is targeted and limited in scope to a specific period in history, a specific set of circumstances and specific type of object. It therefore has no bearing on wider debates about the

⁹ Press includes: Marcus Dysch, [“Could this Bill put an end to time limit on Holocaust restitution claims?”](#), Jewish Chronicle, 12 September 2017; Letter from Andrew Dismore to Ham & High, 24 March 2018

potential return of museum objects to their countries of origin. It has worked well in practice, and the museum community has widely welcomed proposals to retain it on the statute book.

The volume of objects looted during world war two sadly means that there is still uncertainty about the full provenance of some of the cultural treasures housed in our national museums. Extensive work has been done by those institutions to check the origins and history of everything in their collections, but the task can probably never be fully and finally completed...¹⁰

Tom Watson, the Shadow Secretary of State, said that Labour supported the Bill:

(...)

The [Spoliation Advisory] panel has carried out its work fairly and delivered justice to the families of those whose precious possessions were stolen. It works in co-operation with our national museums and galleries, which support its work and are in agreement on the urgency and necessity of returning stolen objects to their owners.

As the right hon. Lady said, this is carefully targeted, specific legislation that works well. Once the Bill has passed...the panel will be able to continue its important work. It is particularly important for those whose stolen possessions have, sadly, still not been found that, once they are, the Bill will give them the power to get back what is theirs. Also, for those who may not even know about this process, and may not even harbour a hope of getting back what their families once treasured, the Bill should give them that hope...¹¹

Mims Davies, Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport, confirmed that the Government supported the Bill. She said that it was correct to right the wrongs that took place in the Nazi era and “when it comes to cultural objects lost in such circumstances we must provide fair and just solutions for families who suffered persecution”.

She noted that referral to the Spoliation Advisory Panel was usually the sole remaining route for claimants to pursue the loss of cultural objects. Ms Davies also quoted Sir Nicholas Serota, director of the Tate from 1988 to 2017, and the National Museum Directors’ Council’s lead on spoliation from 1998 to 2017:

“The UK has been an international leader in responding to the challenges associated with Spoliation claims. The creation of the Spoliation Advisory Panel in 2000 established a model and a procedure that has been adopted by other countries. In recent years, new claims have become less frequent, but there is a strong moral case to remove the ‘sunset’ clause that provides for a time limit on cases being considered. It is important that potential claimants should not feel that the door is being slammed in their face.”¹²

¹⁰ HC Deb 8 February 2019 cc556-8

¹¹ HC Deb 8 February 2019 cc565-7

¹² HC Deb 8 February 2019 cc566-70

3.2 Public Bill Committee

No amendments were tabled to the Bill. The Bill was briefly [debated](#) in [Public Bill Committee](#) on 27 February 2019. It again received cross-party support and was reported without amendment.

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