

# Harpsichord & fortepiano

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# Ivory Sales in the United Kingdom and European Community

David Hackett

The UK Ivory Sales Act (<https://www.legislation.gov.uk/ukpga/2018/30/contents/enacted>) received Royal Assent in December 2018, but implementation was delayed by a series of unsuccessful appeals by a group of antique dealers, ending in their defeat in the Supreme Court. However, the enabling legislation was eventually laid before Parliament, and the Act was enforced as from 6 June 2022.

The sale of most items made from or containing ivory is now banned, but as a result of submissions during the consultation process, we have been able to secure an exemption for musical instruments made before 1975, and containing less than 20% ivory. To be able to offer for sale or hire, such a keyboard instrument with ivory keys (for example, illus.1) must now be registered, and an exemption certificate obtained. It is an offence to offer for sale or hire, to sell, buy, or hire any instrument which is not registered. It is also an offence to facilitate any of these acts, for example by carrying an advertisement on a website. The official government guidance document is online at <https://www.gov.uk/guidance/dealing-in-items-containing-ivory-or-made-of-ivory> while the registration process can be found at <https://apply-deal-ivory.service.gov.uk>. Photographs to prove the age of the instrument are normally necessary, and should be uploaded with the application. In the case of an antique instrument, it will normally be obvious that it was made before 1975.



Illus.1 Original ivory keys on a Hitchcock spinet

The position for revival, replica, and other new-build instruments is more interesting. Some are convincingly dated, but many are not. For example, Morley

instruments are normally not dated but have serial numbers, and the company archives are still accessible: some instruments have ivory keys, and some do not – but Morley's can confirm this. However, in many cases it will be difficult to prove the age of the instrument, and an application requires proof. The registration fee is £20, and the certificate with the registration number appears immediately; the whole process took me less than five minutes. Penalties for failing to register, or for making a false declaration are quite severe – a fine of up to £250,000, or five years imprisonment.

In December 2021 the European Commission issued a Directive which is somewhat different. The relevant part states:

*In the EU, you can only trade a musical instrument containing pieces of ivory, such as piano keys or violin bows if:*

- ▶ *The ivory was acquired before 1975, irrespective of the instrument's date of manufacture – this is referred to as a 'pre-1975 musical instrument' and*
- ▶ *the musical instrument is, or has been until recently, used by a performing artist.*

EC Directives must be incorporated into national law by member states, but I have no knowledge of any detail so far. We note that the second condition prevents the sale of family heirlooms and restoration projects – which probably account for most of the current sales. Details and PDF downloads may be accessed from the link [https://www.ec.europa.eu/environment/publications/ending-most-ivory-trade-eu-guidance-and-amendments\\_en](https://www.ec.europa.eu/environment/publications/ending-most-ivory-trade-eu-guidance-and-amendments_en). However we look at it, the case for 'de-ivorization' looks ever stronger. In the case of the beautiful Hitchcock spinet in illus.1 this should surely be considered vandalism, but for 1947–1974 instruments in the UK replacement of the ivory makes life much simpler, and avoids the need for repeated paperwork and associated costs in the future. For a post-1974 instrument, there is no option if it is ever to be sold. But note that all the above applies to sales – possession, giving away and bequeathing are unaffected. In the EC, the case is even stronger, as the Directive condition which restricts trade to 'professionally active' instruments makes most sales unlawful.



Illus.2 Synthetic ivory 'skunktail' sharps on a spinet by David Hackett (2006)

Several good options for replacement of the ivory are available – these include bone, casein, and synthetics. My 2006 spinet in illus.2 had sharps topped with recycled ivory when built, but I am very happy with the new Elforyn/ebony keys.

I must close by saying that what I have written is based on my own reading of published material – mostly UK and EC websites – and must not be taken as legal advice: please make your own checks.

*David Hackett made his first clavichord when aged 14, and showed it to Carl Dolmetsch, who offered to take him on as an apprentice, but advised him to do no such thing and go to University instead. So, after a career in research and development, David has been happily retired for some years. He now likes to think of himself as a tolerably competent amateur spinet-builder, and it was his privilege to undertake the definitive restoration of the famous Keene & Brackley for the Sigal Music Museum.*

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