

Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein

*Article 7*

**Derogations**

- 1 *Specimens born and bred in captivity or artificially propagated*
- a Save where Article 8 applies, specimens of species listed in Annex A that have been born and bred in captivity or artificially propagated shall be treated in accordance with the provisions applicable to specimens of species listed in Annex B.
  - b In the case of artificially propagated plants, the provisions of Articles 4 and 5 may be waived under special conditions [<sup>F1</sup>set out in regulations made by the Secretary of State], relating to:
    - (i) the use of phytosanitary certificates;
    - (ii) trade by registered commercial traders and by the scientific institutions referred to in paragraph 4 of this Article; and
    - (iii) trade in hybrids.
- [<sup>F2</sup>c The criteria for determining whether a specimen has been born and bred in captivity or artificially propagated and whether for commercial purposes, as well as the special conditions referred to in (b), shall be specified [<sup>F3</sup>in regulations made by the Secretary of State]. <sup>F4</sup>...]
- 2 *Transit*
- a By way of derogation from Article 4, where a specimen is in transit through [<sup>F5</sup>Great Britain], checks and presentation at the border customs office at the point of introduction of the prescribed permits, certificates and notifications shall not be required.
  - b In the case of species listed in the Annexes in accordance with Article 3 (1) and Article 3 (2) (a) and (b), the derogation referred to in (a) shall apply only where a valid export or re-export document provided for by the Convention, relating to the specimens that it accompanies and specifying the destination of the specimens, has been issued by the competent authorities of the exporting or re-exporting third country.
- [<sup>F2</sup>c If the document referred to in (b) has not been issued before export or re-export, the specimen must be seized and may, where applicable, be confiscated unless the document is submitted retrospectively in compliance with the conditions specified [<sup>F6</sup>in regulations made by the Secretary of State]. <sup>F7</sup>...]

[<sup>F23</sup> *Personal and household effects*

By way of derogation from Articles 4 and 5, the provisions therein shall not apply to dead specimens, parts and derivatives of species listed in Annexes A to D which are personal or household effects being introduced into [<sup>F8</sup>Great Britain], or exported or re-exported therefrom, in compliance with provisions that shall be specified [<sup>F9</sup>in regulations made by the Secretary of State]. <sup>F10</sup>...

4 *Scientific institutions*

The documents referred to in Articles 4, 5, 8 and 9 shall not be required in the case of non-commercial loans, donations and exchanges between scientists and scientific

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**Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 338/97, Article 7. (See end of Document for details)

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institutions, registered by the management authorities of the States in which they are located, of herbarium specimens and other preserved, dried or embedded museum specimens, and of live plant material, bearing a label, the model for which has been <sup>F11</sup>... issued or approved by a management authority of a third country.]

#### Textual Amendments

- F1** Words in Art. 7(1)(b) substituted (31.12.2020) by The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(a)**
- F2** Substituted by Regulation (EC) No 398/2009 of the European Parliament and of the Council of 23 April 2009 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein, as regards the implementing powers conferred on the Commission.
- F3** Words in Art. 7(1)(c) substituted (31.12.2020) by The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(b)(i)**
- F4** Words in Art. 7(1)(c) omitted (31.12.2020) by virtue of The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(b)(ii)**
- F5** Words in Art. 7(2)(a) substituted (31.12.2020) by The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(c)**
- F6** Words in Art. 7(2)(c) substituted (31.12.2020) by The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(b)(i)**
- F7** Words in Art. 7(2)(c) omitted (31.12.2020) by virtue of The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(b)(ii)**
- F8** Words in Art. 7(3) substituted (31.12.2020) by The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(d)(i)(aa)**
- F9** Words in Art. 7(3) substituted (31.12.2020) by The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(d)(i)(bb)**
- F10** Words in Art. 7(3) omitted (31.12.2020) by virtue of The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(d)(ii)**
- F11** Words in Art. 7(4) omitted (31.12.2020) by virtue of The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (S.I. 2020/1395), regs. 1(2), **7(8)(e)**

**Changes to legislation:**

There are currently no known outstanding effects for the Council Regulation (EC) No 338/97, Article 7.