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STATUTORY INSTRUMENTS

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**2020 No. 1395**

The Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020

PART 3

AMENDMENT OF RETAINED DIRECT EU LEGISLATION

**Amendment of Council Regulation (EC) No 338/97**

7.—(1) Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein is amended as follows.

(2) In Article 2—

(a) omit point (a);

(b) in point (d)—

(i) for “the Community” substitute “Great Britain”;

(ii) for the words from “by the Commission” to the end substitute “in regulations made by the Secretary of State”;

(c) in point (e), for “the Community” substitute “Great Britain”;

(d) for point (g) substitute—

“(g) “management authority” shall mean the person designated in accordance with Article 13(1)(a);”;

(e) omit point (h);

(f) in point (k), for “the Community” substitute “Great Britain”;

(g) in point (n), for “the Community” in both places it occurs substitute “Great Britain”;

(h) after point (n) insert—

“(na) “Regulation 338/97 (pre-exit)” shall mean Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein, as it had effect immediately before IP completion day;”;

(i) in point (o), for “the Community” in both places it occurs substitute “Great Britain”;

(j) in point (q)—

(i) omit “, in the case of a Member State”;

(ii) for “Article 13(1)(b)” substitute “Article 13(2)”;

(k) omit point (r);

(l) after point (t) insert—

“(ta) “third country” shall mean any country or territory other than Great Britain;

(tb) “third country authority” shall mean the authority of a third country party to the Convention designated in accordance with Article IX of the Convention;”;

- (m) in point (u)—
    - (i) for “the Community” in both places it occurs substitute “Great Britain”;
    - (ii) omit “, including within a Member State,”;
  - (n) in point (v), for “the Community” in both places it occurs substitute “Great Britain”;
  - (o) in point (w)—
    - (i) for “more than 50 years before the entry into force of this Regulation” substitute “before 3rd March 1947”;
    - (ii) omit “of the Member State concerned”;
  - (p) in point (x), for “Community provisions so provide” substitute “United Kingdom legislation (as it applies to Great Britain) so provides”.
- (3) After Article 2 insert—

*“Article 2a*

*References to importation etc.*

In this Regulation—

- (a) references to the importation or introduction of anything into Great Britain includes the importation or introduction of anything into Northern Ireland before IP completion day;
  - (b) references to the export, or re-export of anything from Great Britain includes the export, or re-export of anything from Northern Ireland before IP completion day;
  - (c) references to the transit of specimens through Great Britain includes the transit of specimens through Northern Ireland before IP completion day.”.
- (4) In Article 3—
- (a) in paragraph 1—
    - (i) in point (a), for “Member States have” substitute “United Kingdom has”;
    - (ii) in point (b)(i), for “the Community” substitute “Great Britain”;
  - (b) in paragraph 2—
    - (i) in point (a), for “Member States have” substitute “United Kingdom has”;
    - (ii) in point (d), for “the Community” in both places it occurs substitute “Great Britain”;
  - (c) in paragraph 3(a), for “Member States have” substitute “United Kingdom has”;
  - (d) in paragraph 4(a), for “the Community” substitute “Great Britain”;
  - (e) omit paragraph 5.
- (5) In Article 4—
- (a) in the heading, for “the Community” substitute “Great Britain”;
  - (b) in paragraph 1—
    - (i) in the first subparagraph (beginning “The introduction into”)—
      - (aa) for “the Community” substitute “Great Britain”;
      - (bb) for “a management authority of the Member State of destination” substitute “the management authority”;
    - (ii) in point (a)—
      - (aa) omit “, after considering any opinion by the Scientific Review Group,”;
      - (bb) for “the Community” substitute “Great Britain”;

- (c) in paragraph 2—
  - (i) in the first subparagraph (beginning “The introduction into”)—
    - (aa) for “the Community” substitute “Great Britain”;
    - (bb) for “a management authority of the Member State of destination” substitute “the management authority”;
  - (ii) in point (a)—
    - (aa) omit “and considering any opinion from the Scientific Review Group,”;
    - (bb) for “the Community” substitute “Great Britain”;
- (d) in paragraph 3, in the first sentence, (beginning “The introduction into”), for “the Community” substitute “Great Britain”;
- (e) in paragraph 4, for “the Community” substitute “Great Britain”;
- (f) in paragraph 5(a), for “the Community” in both places it occurs substitute “Great Britain”;
- (g) in paragraph 6—
  - (i) in the first subparagraph, in the words before point (a)—
    - (aa) omit the words from “in accordance” to “Article 18(2)”;
    - (bb) for “Scientific Review Group, the Commission may” substitute “scientific authority, the Secretary of State may, by regulations,”;
    - (cc) for “the Community” substitute “Great Britain”;
  - (ii) in the first subparagraph, in point (d), for “the Community”, in both places it occurs, substitute “Great Britain”;
  - (iii) in the second subparagraph—
    - (aa) for “Commission shall” substitute “Secretary of State must”;
    - (bb) omit “, in the Official Journal of the European Communities”;
- (h) in paragraph 7—
  - (i) in the first subparagraph—
    - (aa) for “the Community” substitute “Great Britain”;
    - (bb) for “shall be granted by the Commission” substitute “may, by regulations, be prescribed by the Secretary of State”;
  - (ii) omit the second subparagraph.
- (6) In Article 5—
  - (a) in the heading, for “the Community” substitute “Great Britain”;
  - (b) in paragraph 1—
    - (i) for “the Community” substitute “Great Britain”;
    - (ii) for “a management authority of the Member State in which the specimens are located” substitute “the management authority”;
  - (c) in paragraph 2—
    - (i) in point (b), omit the words from “where the application is made” to the end;
    - (ii) in point (d), omit “of the Member State”;
  - (d) in paragraph 3—
    - (i) in point (a), for “the Community” substitute “Great Britain”;
    - (ii) after point (a) insert—

- “(aa) were acquired in, or were introduced into, the United Kingdom before IP completion day and in accordance with the requirements of Regulation 338/97 (pre-exit);”;
- (iii) in point (b)—
- (aa) for “Community” substitute “United Kingdom”;
  - (bb) for “this Regulation” substitute “Regulation 338/97 (pre-exit)”;
- (iv) in point (c) for “Community” substitute “United Kingdom”;
- (v) in point (d)—
- (aa) for “a Member State” substitute “the United Kingdom”;
  - (bb) after “(a)” insert “, (aa)”;
  - (cc) omit “, or became applicable in that Member State”;
- (e) in paragraph 4, in the first subparagraph (beginning “The export or re-export”)—
- (i) for “the Community” substitute “Great Britain”;
  - (ii) for “a management authority of the Member State in whose territory the specimens are located” substitute “the management authority”;
- (f) omit paragraph 5;
- (g) in paragraph 6(ii), for “this Regulation” substitute “Regulation 338/97 (pre-exit)”;
- (h) in paragraph 7—
- (i) in point (a)—
    - (aa) omit “in each Member State”;
    - (bb) for “that Member State” substitute “the management authority”;
    - (cc) omit “competent” in the second place it occurs;
  - (ii) for point (b) substitute—
    - “(b) Whenever the management authority is advised of the measures referred to in (a), it shall inform and send comments to the Secretary of State who may make regulations restricting exports of the species concerned.”.
- (7) In Article 6—
- (a) omit paragraphs 1, 2 and 4;
  - (b) in paragraph 3—
    - (i) after “rejected” insert “by the management authority or by a third country authority”;
    - (ii) for “competent authority to which the application is submitted” substitute “management authority”.
- (8) In Article 7—
- (a) in paragraph 1(b), for “laid down by the Commission” substitute “set out in regulations made by the Secretary of State”;
  - (b) in paragraphs 1(c) and 2(c)—
    - (i) in the first sentence, for “by the Commission” substitute “in regulations made by the Secretary of State”;
    - (ii) omit the second sentence;
  - (c) in paragraph 2(a), for “the Community” substitute “Great Britain”;
  - (d) in paragraph 3—

- (i) in the first sentence—
    - (aa) for “the Community” substitute “Great Britain”;
    - (bb) for “by the Commission” substitute “in regulations made by the Secretary of State”;
  - (ii) omit the second sentence;
  - (e) in paragraph 4, omit “determined in accordance with the regulatory procedure referred to in Article 18(2) or a similar label”.
- (9) In Article 8—
- (a) omit paragraph 2;
  - (b) in paragraph 3—
    - (i) in the first sentence (beginning “In accordance with”)—
      - (aa) for “Community legislation” substitute “United Kingdom legislation (as that legislation applies in Great Britain)”;
      - (bb) for “a management authority of the Member State in which the specimens are located” substitute “the management authority”;
    - (ii) for point (a) substitute—
      - “(a) were—
        - (i) acquired in, or were introduced into, a Member State before the provisions relating to species listed in Appendix I to the Convention or in Annex C1 to Regulation (EEC) No 3626/82 or in Annex A to Regulation 338/97 (pre-exit) became applicable to the specimens; and
        - (ii) acquired in, or were introduced into, the United Kingdom before IP completion day; or”;
    - (iii) after point (a) insert—
      - “(aa) were acquired in, or were introduced into, the United Kingdom before the provisions relating to species listed in Appendix I to the Convention or in Annex C1 to Regulation (EEC) No 3626/82 or in Annex A to Regulation 338/97 (pre-exit) became applicable to the specimens; or”;
    - (iv) in point (c), for “the Community” substitute “Great Britain”;
    - (v) in point (e) for the words from “Council Directive 86/609/EEC” to “other scientific purposes”, substitute “, and in accordance with, the Animals (Scientific Procedures) Act 1986(1),”;
    - (vi) in point (h)—
      - (aa) for “a Member State” substitute “Great Britain”;
      - (bb) for “that Member State”, substitute “the United Kingdom (as that legislation applies in Great Britain)”;
  - (c) in paragraph 4—
    - (i) in the first sentence, for “Commission” substitute “Secretary of State in regulations”;
    - (ii) in the second sentence, for “Community legislation” substitute “United Kingdom legislation (as that legislation applies in Great Britain)”;
    - (iii) omit the third sentence;

- (d) in paragraph 5—
    - (i) for “competent” substitute “management”;
    - (ii) omit “of the Member State concerned”;
    - (iii) for “the Community” substitute “Great Britain”;
  - (e) in paragraph 6—
    - (i) for “competent authorities of the Member States” substitute “management authority”;
    - (ii) for “they have” substitute “it has”;
    - (iii) for “provided that it” substitute “provided the specimen”.
- (10) In Article 9—
- (a) in paragraph 1—
    - (i) for “the Community” substitute “Great Britain”;
    - (ii) after “in compliance with this Regulation” insert “, or Regulation 338/97 (pre-exit),”;
    - (iii) for “a management authority of the Member State in which the specimen is located” substitute “the management authority”;
  - (b) in paragraph 2—
    - (i) in point (a), omit the words from “of such Member State” to “of the latter,”;
    - (ii) in point (b), omit “and”;
    - (iii) omit point (c);
  - (c) in paragraph 4, for “the Community” substitute “Great Britain”;
  - (d) in paragraph 5—
    - (i) for “the Community” substitute “Great Britain”;
    - (ii) for “Community legislation” substitute “United Kingdom legislation”;
    - (iii) at the end insert “(as that legislation applies in Great Britain)”;
  - (e) in paragraph 6—
    - (i) in the first sentence—
      - (aa) for “Commission may” substitute “Secretary of State may, by regulations,”;
      - (bb) for “the Community” substitute “Great Britain”;
    - (ii) omit the second sentence.
- (11) In Article 10, for “a management authority of a Member State” substitute “the management authority”.
- (12) In Article 11—
- (a) omit paragraphs 1 and 2;
  - (b) in paragraph 3—
    - (i) in the first sentence, for “issuing” substitute “management”;
    - (ii) omit the second sentence;
  - (c) in paragraph 4, for “the Community” substitute “Great Britain”;
  - (d) in paragraph 5—
    - (i) in the first sentence, for “Commission shall” substitute “Secretary of State may, by regulations,”;
    - (ii) omit the second sentence.

- (13) In Article 12—
- (a) in paragraph 1—
    - (i) for “Member States shall” substitute “The Secretary of State may”;
    - (ii) for “the Community” substitute “Great Britain”;
    - (iii) omit “within the meaning of Regulation (EEC) No 2913/92,”;
  - (b) in paragraph 2—
    - (i) for “Member States shall” substitute “The Secretary of State must”;
    - (ii) for “Community” substitute “United Kingdom”;
    - (iii) after “animals” insert “(as that legislation applies in Great Britain)”;
    - (iv) for paragraph 3 substitute—
      - “3. A list of the customs offices designated in accordance with paragraph 1 must be published in such form and manner as the Secretary of State considers appropriate.”;
  - (c) in paragraph 4—
    - (i) in the first sentence—
      - (aa) for “defined by the Commission, a” substitute “set out in regulations made by the Secretary of State, the”;
      - (bb) for “the Community” substitute “Great Britain”;
    - (ii) omit the second sentence.
  - (d) in paragraph 5, for “Member States” substitute “The Secretary of State”.
- (14) In Article 13—
- (a) in paragraph 1—
    - (i) in point (a)—
      - (aa) for “Each Member State shall” substitute “The Secretary of State must”;
      - (bb) for “and for communication with the Commission” substitute “(the management authority)”;
    - (ii) in point (b) for “Each Member State” substitute “The Secretary of State”;
  - (b) in paragraph 2, for “Each Member State shall” substitute “The Secretary of State may”;
  - (c) omit paragraph 3.
- (15) In Article 14—
- (a) in paragraph 1—
    - (i) in point (a), for “of the Member States shall” substitute “must”;
    - (ii) omit point (c);
  - (b) omit paragraphs 2 and 3.
- (16) In Article 15—
- (a) omit paragraphs 1, 3 and 5;
  - (b) in paragraph 2, for “The Commission shall” substitute “The Secretary of State must”;
  - (c) in paragraph 4—
    - (i) omit points (a) and (c);
    - (ii) in point (b)—

- (aa) for “On the basis of the information submitted by the Member States referred to in point (a), the Commission services shall” substitute “The Secretary of State must”;
- (bb) for “the Union” substitute “Great Britain”;
- (iii) for point (d) substitute—
  - “(d) The Secretary of State must publish a report on the implementation and enforcement of this Regulation when reporting that information under the Convention, to the Convention Secretariat.”;
- (iv) in point (e), for the words from the beginning to “June” substitute “The Secretary of State must communicate to the Convention Secretariat before 31st October”;
- (d) in paragraph 6—
  - (i) omit “Without prejudice to Council [Directive 90/313/EEC](#) of 7 June 1990 on the freedom of access to information on the environment.”;
  - (ii) for “the Commission” substitute “The Secretary of State”;
  - (iii) after “this Regulation” insert “, having regard to the Environmental Information Regulations 2004(2) and the Environmental Information (Scotland) Regulations 2004(3)”.
- (17) In Article 16—
  - (a) in paragraph 1—
    - (i) for the words from “Member States” to “infringements” substitute “The following are infringements”;
    - (ii) in sub-paragraph (a), for “the Community” substitute “Great Britain”;
    - (iii) in sub-paragraph (d), for “Community permit or certificate” substitute “permit or certificate issued in accordance with this Regulation”;
    - (iv) in sub-paragraph (i), for “the territory of the Community” substitute “Great Britain”;
    - (v) in sub-paragraph (m), for “a Community” substitute “an”;
  - (b) omit paragraph 2;
  - (c) in paragraph 3—
    - (i) for “a competent authority of the Member State of confiscation” substitute “the relevant competent authority of the United Kingdom”;
    - (ii) in point (a), for “a scientific authority of that Member State” substitute “the relevant scientific authority of the United Kingdom”;
    - (iii) in point (b), for “the Community” substitute “Great Britain”;
  - (d) in paragraph 4—
    - (i) for “the Community” substitute “Great Britain”;
    - (ii) for “the competent authorities of the Member State responsible for the point of introduction” substitute “the relevant competent authority of the United Kingdom”.
- (18) Omit Article 17.
- (19) For Article 18 substitute—

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(2) [S.I. 2004/3391](#) amended by paragraphs 306 and 307 of Schedule 19 to the Data Protection Act 2018 (c.12) (“the 2018 Act”) and [S.I. 2011/1043](#).

(3) [S.S.I. 2004/520](#) amended by paragraphs 311 and 312 of Schedule 19 to the 2018 Act, [S.I. 2011/1043](#) and [S.S.I. 2013/127](#).



*“Article 18*

*Regulations*

1. Regulations made under this Regulation are to be made by statutory instrument.
  2. A statutory instrument containing regulations made under this Regulation is to be laid before Parliament after being made, except for a statutory instrument containing regulations made under the following Articles, which is subject to annulment in pursuance of a resolution of either House of Parliament—
    - (a) Article 4(6);
    - (b) Article 5(7);
    - (c) Article 7(1);
    - (d) Article 7(2);
    - (e) Article 7(3);
    - (f) Article 8(4);
    - (g) Article 9(6);
    - (h) Article 19(4);
    - (i) Article 19(5).
  3. Such regulations may—
    - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
    - (b) make different provision for different cases.”.
- (20) In Article 19—
- (a) in paragraph 1—
    - (i) omit the first subparagraph;
    - (ii) in the second subparagraph—
      - (aa) for “Commission shall determine” substitute “Secretary of State may, by regulations, prescribe”;
      - (bb) omit the words from “in accordance” to the end;
  - (b) omit paragraph 2;
  - (c) in paragraph 3—
    - (i) in the first subparagraph, in the words before point (a), for “Commission shall lay down uniform” substitute “Secretary of State must, by regulations, prescribe”;
    - (ii) omit the second subparagraph;
  - (d) in paragraph 4—
    - (i) in the first sentence, for “Commission shall adopt, where necessary, additional measures to” substitute “Secretary of State may, by regulations,”;
    - (ii) omit the second sentence;
  - (e) in paragraph 5—
    - (i) in the first sentence, for “Commission shall” substitute “Secretary of State may, by regulations,”;
    - (ii) for the second sentence substitute—

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“Before amending Annex B with respect to species described at Article 3(2)(c) or (d), or amending Annex D with respect to species described at Article 3(4)(a), the Secretary of State must consult the scientific authority regarding the amendment.”.

(21) Omit Articles 20 to 22.